

REFERENCE TITLE: transaction privilege tax changes

State of Arizona  
House of Representatives  
Fifty-first Legislature  
First Regular Session  
2013

## HB 2657

Introduced by

Representatives Lesko, Boyer, Cardenas, Forese, Gallego, Gowan, Gray,  
Kwasman, Livingston, Mesnard, Mitchell, Montenegro, Olson, Orr, Petersen,  
Pierce J, Smith, Tobin, Townsend, Wheeler, Senators Barto, Biggs,  
Crandall, Driggs, Farley, McComish, Murphy, Pierce, Worsley, Yarbrough,  
Yee: Representatives Allen, Barton, Brophy McGee, Carter, Coleman, Fann,  
Lovas, Miranda, Pratt, Shope, Thorpe, Senators Ableser, Burges, Crandell,  
Meza, Reagan, Shooter, Ward

### AN ACT

AMENDING SECTIONS 28-2154.01, 41-1516, 41-1532, 42-1103, 42-5001 AND 42-5006, ARIZONA REVISED STATUTES; PROVIDING FOR THE DELAYED REPEAL OF SECTION 42-5007, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-5009, 42-5010, 42-5029, 42-5032.01 AND 42-5032.02, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5039; AMENDING SECTIONS 42-5061, 42-5071, 42-5072 AND 42-5075, ARIZONA REVISED STATUTES; PROVIDING FOR THE DELAYED REPEAL OF SECTION 42-5076, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-5151, 42-5155, 42-5159, 42-5160, 42-6001, 42-6002, 42-6004 AND 42-6102, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 6, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-6113; AMENDING SECTIONS 43-1072.01, 44-1263, 48-4022, 48-5805 AND 49-290, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE AND AFFILIATED EXCISE TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-2154.01, Arizona Revised Statutes, is amended to  
3 read:

4 28-2154.01. Special ninety day nonresident registration  
5 permits: procedures

6 A. A dealer or an authorized third party that issues a special ninety  
7 day nonresident registration permit pursuant to section 28-2154 shall send an  
8 electronic record of the permit to the department through an authorized third  
9 party or through the department's authorized third-party electronic service  
10 provider.

11 B. The department, an authorized third party or a dealer shall not:

12 1. Issue, assign or deliver a special ninety day nonresident  
13 registration permit to any person unless the person does all of the  
14 following:

15 (a) Obtains the special ninety day nonresident registration permit  
16 pursuant to section 28-2154.

17 (b) Completes an affidavit in a form prescribed by the director  
18 pursuant to section 28-2154 or completes a form prescribed by section  
19 42-5009, subsection H.

20 (c) Presents to the department, authorized third party or motor  
21 vehicle dealer a current valid driver license issued by another state  
22 indicating an address outside of this state.

23 (d) Provides any other information reasonably and uniformly required  
24 by the department of transportation pursuant to section 28-2154 or the  
25 department of revenue pursuant to section 42-5009, subsection H.

26 2. Issue and affix, as prescribed in subsection C of this section, a  
27 special ninety day nonresident registration permit unless the permit is  
28 recorded in the electronic records of the department.

29 C. A person who issues a special ninety day nonresident registration  
30 permit shall affix or insert, clearly and indelibly, on the face of each  
31 permit the dates of issuance and expiration and the make and vehicle  
32 identification number of the vehicle. The special ninety day nonresident  
33 registration permit shall not bear the name or address of the person who  
34 purchased the vehicle in a position that is legible from outside of the  
35 vehicle.

36 D. A dealer or authorized third party who issues a special ninety day  
37 nonresident registration permit shall maintain a record, in a form prescribed  
38 by the director, of all special ninety day nonresident registration permits  
39 issued by the dealer or authorized third party and a record of other  
40 information pertaining to the issuance of special ninety day nonresident  
41 registration permits that the department of transportation or the department  
42 of revenue requires.

43 E. The dealer or authorized third party shall keep each record for at  
44 least three years after the date of entry of the record.

F. A dealer or authorized third party shall allow the director of the department of transportation or the director of the department of revenue full and free access to the records during regular business hours.

G. The electronic record is written notice of the removal of the vehicle from this state for use in the purchaser's state of residence and relieves the dealer or authorized third party of liability in accordance with the requirements of section 42-5009.

H. If a purchaser registers the vehicle in this state within three hundred sixty-five days after the issuance of the special ninety day nonresident registration permit, the purchaser is liable in an amount equal to any tax, penalty and interest that the motor vehicle dealer or authorized third party would have been required to pay under title 42, chapter 5 and under articles IV and VI of the model city tax code as defined in section 42-6051. At the time of issuing the special ninety day nonresident registration permit, a motor vehicle dealer or authorized third party shall inform the purchaser in writing of the purchaser's liability described in this section. Subsequent registration or use of the vehicle in this state does not create a cause of action against a dealer or authorized third party that complies with section 28-2154, subsection A, this section and section 42-5009, subsection H.

I. The department of transportation and the department of revenue shall jointly develop and prescribe forms for the motor vehicle dealer, the authorized third party and the purchaser to complete for the proper administration and enforcement of this section.

J. Compliance with this section and section 28-2154 allows delivery of the vehicle to a nonresident purchaser in this state and retains the applicable deductions pursuant to section 42-5061, subsection A, paragraph 28 27, subdivision (a) and subsection U.

Sec. 2. Section 41-1516, Arizona Revised Statutes, is amended to read: 41-1516. Healthy forest enterprise incentives; definitions

A. The Arizona commerce authority shall:

1. Implement a program to encourage counties, cities and towns to provide local incentives to economic enterprises that promote forest health in this state.

2. Identify and certify to the department of revenue the names of and relevant information relating to qualified businesses for the purposes of available state tax incentives for economic enterprises that promote forest health in this state.

B. To qualify for state tax incentives pursuant to this section, a business:

1. Must be primarily engaged in a qualifying project. The business shall submit to the authority evidence that it is engaged in a qualifying project as follows:

(a) The business operation must enhance or sustain forest health, sustain or recover watershed or improve public safety.

(b) If the qualifying forest product is on federal land, the business shall submit a letter from the federal agency administering the land, or official records or documents produced in connection with the project, stating that the business is primarily engaged in the business of harvesting or processing qualifying forest products for commercial use as follows:

(i) At least seventy per cent of the harvested or processed products, measured by weight, must be qualifying forest products.

(ii) At least seventy-five per cent of the qualifying forest products, measured by weight, must be harvested from sources in this state.

(c) If the qualifying forest product is not on federal land, the business shall submit a letter from the state forester stating that the business is primarily engaged in the business of harvesting or processing qualifying forest products for commercial use as follows:

(i) At least seventy per cent of the harvested or processed products must be qualifying forest products.

(ii) At least seventy-five per cent of the harvested or processed products must be from areas in this state.

(d) If the business is engaged in transporting qualifying forest products, it must submit a letter from the state forester or United States forest service, or official records or documents produced in connection with the project, stating that all of the qualifying forest products it transports are harvested from areas in this state. In addition, the business must submit evidence to the authority that at least seventy-five per cent of the mileage traveled by its units each year are for transporting qualifying forest products from or to qualifying projects described in subdivision (b) or (c) of this paragraph, unless a lower mileage is due to forest closures or weather conditions that are beyond the control of the business.

2. Must employ at least one permanent full-time employee.

3. Must agree to furnish to the authority information relating to the amount of state tax benefits that the business receives each year.

4. Must enter into a memorandum of understanding with the authority containing:

(a) Employment goals. Each year the business must report in writing to the authority its performance in achieving the goals.

(b) A commitment to continue in business and use the qualifying equipment primarily on qualifying projects in this state as described in paragraph 1 of this subsection, other than for reasons beyond the control of the business. The authority shall consult with the department of revenue in designing the memorandum of understanding to incorporate the legal qualifications for the available tax incentives and shall include the requirement that any qualifying equipment that is purchased or leased free of transaction privilege or use tax must continue to be used in this state for the term of the memorandum of understanding or the duration of its operational life, whichever is shorter.

1 (c) Provisions considered necessary by the authority to ensure the  
2 competency and responsibility of businesses that qualify under this section,  
3 including registration or other accreditation with trade and professional  
4 organizations and compliance with best management and operational practices  
5 used by governmental agencies in awarding forestry contracts.

6 (d) The authorization for the authority to terminate, adjust or  
7 recapture all or part of the tax benefits provided to the business on  
8 noncompliance with the law, noncompliance with the terms of the memorandum or  
9 violation of the terms of any contracts with the federal or state government  
10 relating to the qualifying project. The authority shall notify the  
11 department of revenue of the conditions of noncompliance. The department of  
12 revenue may also terminate the certification if it obtains information  
13 indicating a failure to qualify and comply. The department of revenue may  
14 require the business to file appropriate amended tax returns or to file  
15 appropriate use tax returns reflecting the recapture of the direct or  
16 indirect tax benefits.

17 5. Must submit a copy of the certification to the department of  
18 revenue for approval before using the certification for purposes of any tax  
19 incentive. The department of revenue shall review and approve the  
20 certification in a timely manner if the business is in good standing with the  
21 department and is not delinquent in the payment of any tax collected by the  
22 department. A failure to approve or deny the certification within sixty days  
23 after the date the business submits it to the department constitutes approval  
24 of the certification.

25 ~~C. For the purposes of section 42-5075, subsection B, paragraph 18,~~  
26 ~~the authority shall certify prime contractors that contract for the~~  
27 ~~construction of any building, or other structure, project, development or~~  
28 ~~improvement owned by a qualified business for purposes of a qualifying~~  
29 ~~project described in subsection B, paragraph 1 of this section.~~

30 ~~D.~~ C. To obtain and maintain certification under this section, a  
31 business must:

32 1. Apply to the authority.

33 2. Submit and retain copies of all required information, including  
34 information relating to the actual or projected number of employees in this  
35 state.

36 3. Allow inspections and audits to verify the qualification and  
37 accuracy of information submitted to the authority.

38 ~~E.~~ D. Certification under this section is valid for sixty calendar  
39 months from the date of issuance. A business must apply for recertification  
40 at least thirty days before the current certification expires. The  
41 application for recertification shall be in a form prescribed by the  
42 authority and shall confirm that the business is continuing in a qualifying  
43 project and is in compliance with all requirements prescribed for  
44 certification.

1       ~~F.~~ E. Within sixty days after receiving a complete and correct  
2 application and all required information as prescribed by this section, the  
3 authority shall grant or deny certification and give written notice by  
4 certified mail to the applicant. The applicant is certified as a qualified  
5 business on the date the notice of certification is delivered to the  
6 applicant. A failure to respond within sixty days after receiving a complete  
7 and correct application constitutes approval of the application.

8       ~~G.~~ F. The certification shall state an effective date with respect to  
9 each authorized tax incentive which, in each case, must be at the start of a  
10 taxable year or taxable period.

11       ~~H.~~ G. On or before March 1 of each year, each qualifying business  
12 shall make a report to the authority on all business activity in the  
13 preceding calendar year. Business information contained in the reports is  
14 confidential and shall not be disclosed to the public except as provided by  
15 this section and except that a copy of the report shall be transmitted to the  
16 department of revenue. The report shall be in a form prescribed by the  
17 authority and include:

18           1. Information prescribed by the authority with respect to both  
19 qualifying projects and other projects and business activity that do not  
20 qualify for purposes of this section.

21           2. Employment information necessary to confirm eligibility for income  
22 tax credits as prescribed by sections 43-1076 and 43-1162.

23           3. The quantity, measured by weight, of qualifying forest products  
24 harvested, transported or processed.

25       ~~I.~~ H. On or before May 1 of each year, the authority shall report to  
26 the joint legislative budget committee:

27           1. The quantity, measured by weight, of qualifying forest products  
28 reported by harvesters, by transporters and by processors in the preceding  
29 calendar year.

30           2. The number of new full-time employees hired in qualified employment  
31 positions in this state in the preceding calendar year and reported for tax  
32 credit purposes.

33           3. The total number of all full-time employees employed in qualified  
34 employment positions in this state in the preceding calendar year and  
35 reported for tax credit purposes.

36       ~~J.~~ I. For purposes of administering and ensuring compliance with this  
37 section, agents of the authority may enter, and a qualified business shall  
38 allow access to, a qualifying project site at reasonable times and on  
39 reasonable notice to:

40           1. Inspect the facilities at the site.

41           2. Obtain factual data and records pertinent to and required by law to  
42 be kept for purposes of tax incentives.

43           3. Otherwise ascertain compliance with law and the terms of the  
44 memorandum of understanding.

1       ~~K.~~ J. The authority shall revoke the business' certification and  
2 notify the department of revenue and county assessor if either:

3       1. Within thirty days after a formal request from the authority or the  
4 department of revenue the business fails or refuses to provide the  
5 information or access for inspections required by this section.

6       2. The business no longer meets the terms and conditions required for  
7 qualification for the applicable tax incentives.

8       ~~L.~~ K. For the purposes of this section:

9       1. "Forest health" means the degree to which the integrity of the  
10 forest is sustained, including reducing the risk of catastrophic wildfire and  
11 destructive insect infestation, benefiting wildland habitats, watersheds and  
12 communities.

13       2. "Harvesting" means all operations relating to felling or otherwise  
14 removing trees and other forest plant growth and preparing them for transport  
15 for subsequent processing.

16       3. "Processing" means:

17       (a) Any change in the physical structure of qualifying forest products  
18 removed from a qualifying project into a marketable commercial product or  
19 component of a product that has commercial value to a consumer or purchaser  
20 and that is ready to be used with or without further altering its form.

21       (b) Burning qualifying forest products in the process of commercial  
22 electrical generation or commercial thermal energy production for heating or  
23 cooling, regardless of the physical structure of the forest product before  
24 burning.

25       4. "Qualifying equipment" means equipment used directly in harvesting  
26 or processing qualifying forest products removed from a qualifying project.  
27 Qualifying equipment does not include self-propelled vehicles required to be  
28 licensed by this state, but may include other licensed vehicles as provided  
29 by this paragraph. Qualifying equipment includes:

30       (a) Forest thinning and residue removal equipment, including mulching  
31 and masticating equipment, feller-bunchers, skidders, log loaders, portable  
32 chippers and grinders, slash bundlers, delimbers, log trailers, chip trailers  
33 and other trailers that are uniquely designed for handling forest products  
34 and that are licensed for operation on public highways.

35       (b) Forest residue receiving and handling equipment, including truck  
36 dumpers, log unloaders, scales, log decking facilities and equipment and chip  
37 pile facilities.

38       (c) Sorting and processing equipment, including portable and  
39 stationary log loaders, front-end loaders, ~~fork-lifts~~ FORKLIFTS and cranes,  
40 chippers and grinders, screens, decks and debarkers, saws and sawmill  
41 equipment, firewood processing, wood residue baling and bagging equipment,  
42 kilns, planing and molding equipment and laminating and joining equipment.

1 (d) Forest waste and residue disposal and processing equipment,  
2 including:

3 (i) Processing and sizing equipment, hogs, chippers, screens,  
4 pelletizers and wood splitters.

5 (ii) Transporting and handling equipment, including loaders,  
6 conveyors, blowers, receiving hoppers, truck dumpers and dozers.

7 (iii) Waste use equipment, including fuel feed, storage bins, boilers  
8 and combustors.

9 (iv) Waste project use equipment, including generators, switchgear and  
10 substations and on-site distribution systems.

11 (v) Generated waste disposal equipment, including ash silos and  
12 wastewater treatment and disposal equipment.

13 (vi) Shop and maintenance equipment and major spares having a value of  
14 more than five thousand dollars each.

15 5. "Qualifying forest products" means dead standing and fallen timber,  
16 and forest thinnings associated with the harvest of small diameter timber,  
17 slash, wood chips, peelings, brush and other woody vegetation, removed from  
18 federal, state and other public forest land and from private forest land.

19 6. "Qualifying project" means harvesting, transporting or processing  
20 qualifying forest products as required for certification pursuant to this  
21 section.

22 Sec. 3. Section 41-1532, Arizona Revised Statutes, is amended to read:

23 41-1532. Tax incentives; conditions

24 ~~A. A prime contractor may qualify for an exemption from transaction~~  
25 ~~privilege tax with respect to activities in a military reuse zone as~~  
26 ~~provided, and subject to the terms and conditions prescribed, by section~~  
27 ~~42-5075, subsection B, paragraph 4.~~

28 ~~B.~~ A. A taxpayer that owns or leases income producing property  
29 located in a military reuse zone is eligible for an income tax credit for net  
30 increases in employment of full-time employees who are primarily engaged in  
31 providing aviation or aerospace services or in manufacturing, assembling or  
32 fabricating aviation or aerospace products as provided, and subject to the  
33 terms and conditions prescribed, by section 43-1079 or 43-1167, as  
34 applicable. To qualify for a tax incentive under this subsection the  
35 taxpayer shall:

36 1. Agree with the Arizona commerce authority in writing to furnish  
37 information relating to the amount of tax benefits the taxpayer receives for  
38 each taxable year in which the taxpayer claims the credit. If the taxpayer  
39 fails to provide the required information, the authority shall immediately  
40 revoke the taxpayer's qualification and notify the department of revenue.

41 2. Enter into a memorandum of understanding with this state through  
42 the authority containing employment goals. Each year in which the taxpayer  
43 claims the credit the taxpayer shall report in writing to the authority its  
44 performance in achieving the goals. The memorandum shall contain provisions  
45 that allow:



1 (a) The authority to stop, readjust or recapture all or part of the  
 2 tax credit allowed to the taxpayer on noncompliance with the terms of the  
 3 memorandum.

4 (b) The authority to notify the department of revenue of the  
 5 conditions of noncompliance.

6 (c) The department of revenue to require the taxpayer to file  
 7 appropriate amended tax returns reflecting the recapture of the tax credit.

8 ~~C.~~ B. Taxable property in a military reuse zone that is devoted to  
 9 providing aviation or aerospace services or to manufacturing, assembling or  
 10 fabricating aviation or aerospace products qualifies for assessment as class  
 11 six property as provided, and subject to the terms and conditions prescribed,  
 12 by sections 42-12006 and 42-15006.

13 ~~D.~~ C. To qualify for a tax incentive described in subsection ~~A or C~~ B  
 14 of this section, the taxpayer shall provide to the authority information  
 15 relating to the amount of tax benefits the taxpayer receives each year for  
 16 each year in which the taxpayer claims the incentives on forms prescribed by  
 17 the authority. If the taxpayer fails to provide the required information,  
 18 the authority shall immediately revoke the taxpayer's certification of  
 19 eligibility and notify the department of revenue.

20 ~~E.~~ D. Taxpayers who qualify for tax incentives under subsection A OR  
 21 B ~~or C~~ of this section shall be certified by the authority as eligible for a  
 22 five-year period, subject to termination in the event of changed  
 23 circumstances rendering the taxpayer no longer eligible.

24 ~~F.~~ E. Notwithstanding subsection ~~C~~ B of this section, an insurer  
 25 located in a military reuse zone is eligible for a premium tax credit under  
 26 section 20-224.04 for net increases in employment positions of residents of  
 27 this state. To qualify for a premium tax credit the insurer shall:

28 1. Agree with the authority in writing to furnish information relating  
 29 to the amount of premium tax credits the insurer receives each year. If the  
 30 insurer fails to provide the required information, the authority shall  
 31 immediately revoke the insurer's qualification and notify the department of  
 32 insurance.

33 2. Enter into a memorandum of understanding with this state through  
 34 the authority containing employment goals. Each year the insurer shall  
 35 report in writing to the authority its performance in achieving the goals.  
 36 The memorandum shall contain provisions that allow:

37 (a) The authority to stop, readjust or recapture all or part of the  
 38 premium tax credits provided to the insurer on noncompliance with the terms  
 39 of the memorandum.

40 (b) The authority to notify the department of insurance of the  
 41 conditions of noncompliance.

1 Sec. 4. Section 42-1103, Arizona Revised Statutes, is amended to read:

2 42-1103. Enjoining delinquent taxpayer from engaging or  
3 continuing in business

4 A. In order to ensure or to compel payment of taxes and to aid in  
5 enforcing this article, the director may apply to the tax court to enjoin any  
6 delinquent taxpayer or person who may be or may become liable for payment of  
7 any tax from engaging or continuing in business until the person ceases to be  
8 a delinquent taxpayer or complies with other requirements ~~which~~ THAT are  
9 reasonably necessary to protect the revenues of this state and ~~which~~ THAT are  
10 prescribed by the director.

11 B. On application for an injunction against a delinquent taxpayer, the  
12 court may forthwith issue an order temporarily restraining the taxpayer from  
13 doing business. The court shall hear the matter within three days and, on a  
14 showing by a preponderance of evidence that the taxpayer is delinquent and  
15 has been given notice of the hearing as required by law, the court may enjoin  
16 the taxpayer from engaging or continuing in business in this state until the  
17 taxpayer ceases to be delinquent. On issuing an injunction, the court may  
18 also order the sheriff to seal the taxpayer's business premises and may allow  
19 the taxpayer access to the premises only on the approval of the court.

20 C. On application for an injunction against a person other than a  
21 delinquent taxpayer, the court may issue an order temporarily restraining the  
22 person from engaging or continuing in business. The court shall hear the  
23 matter within three days and on a showing that the person has been given  
24 notice of the hearing as required by law, that demand has been made on the  
25 taxpayer to furnish security, that the taxpayer has not furnished security  
26 and that the director considers the collection from the primarily responsible  
27 person of the total amount of tax due or reasonably expected to become due to  
28 be in jeopardy, the court may forthwith enjoin the person from engaging or  
29 continuing in business until the person complies in full with the demand of  
30 the director for furnishing security.

31 D. The court shall not issue a temporary restraining order or  
32 injunction under this section against any person who has furnished security  
33 pursuant to section 42-1102, ~~OR~~ 42-5006 ~~or 42-5007~~. On a showing to the  
34 court by any person against whom a temporary restraining order or injunction  
35 has issued under this section that the person has furnished such security,  
36 the court shall dissolve or set aside the temporary restraining order or  
37 injunction.

38 Sec. 5. Section 42-5001, Arizona Revised Statutes, is amended to read:

39 42-5001. Definitions

40 In this article and article 2 of this chapter, unless the context  
41 otherwise requires:

42 1. "Business" includes all activities or acts, personal or corporate,  
43 engaged in or caused to be engaged in with the object of gain, benefit or  
44 advantage, either directly or indirectly, but does not include either:

1 (a) Casual activities or sales.  
2 (b) The transfer of electricity from a solar photovoltaic generation  
3 system to an electric utility distribution system.  
4 2. "CONTRACTING" MEANS ENGAGING IN BUSINESS AS A CONTRACTOR.  
5 3. "CONTRACTOR" IS SYNONYMOUS WITH THE TERM "BUILDER" AND MEANS ANY  
6 PERSON OR ORGANIZATION THAT UNDERTAKES TO OR OFFERS TO UNDERTAKE TO, OR  
7 PURPORTS TO HAVE THE CAPACITY TO UNDERTAKE TO, OR SUBMITS A BID TO, OR DOES  
8 PERSONALLY OR BY OR THROUGH OTHERS, MODIFY ANY BUILDING, HIGHWAY, ROAD,  
9 RAILROAD, EXCAVATION, MANUFACTURED BUILDING OR OTHER STRUCTURE, PROJECT,  
10 DEVELOPMENT OR IMPROVEMENT, OR TO DO ANY PART OF SUCH A PROJECT, INCLUDING  
11 THE ERECTION OF SCAFFOLDING OR OTHER STRUCTURE OR WORKS IN CONNECTION WITH  
12 SUCH A PROJECT, AND INCLUDES SUBCONTRACTORS AND SPECIALTY CONTRACTORS. FOR  
13 ALL PURPOSES OF TAXATION OR DEDUCTION, THIS DEFINITION GOVERNS WITHOUT REGARD  
14 TO WHETHER OR NOT THE CONTRACTOR IS ACTING IN FULFILLMENT OF A CONTRACT.  
15 ~~2.~~ 4. "Distribution base" means the portion of the revenues derived  
16 from the tax levied by this article and articles 5 and 8 of this chapter  
17 designated for distribution to counties, municipalities and other purposes  
18 according to section 42-5029, subsection D.  
19 ~~3.~~ 5. "Engaging", when used with reference to engaging or continuing  
20 in business, includes the exercise of corporate or franchise powers.  
21 ~~4.~~ 6. "Gross income" means the gross receipts of a taxpayer derived  
22 from trade, business, commerce or sales and the value proceeding or accruing  
23 from the sale of tangible personal property or service, or both, and without  
24 any deduction on account of losses.  
25 ~~5.~~ 7. "Gross proceeds of sales" means the value proceeding or  
26 accruing from the sale of tangible personal property without any deduction on  
27 account of the cost of property sold, expense of any kind or losses, but cash  
28 discounts allowed and taken on sales are not included as gross income.  
29 ~~6.~~ 8. "Gross income" and "gross proceeds of sales" do not include  
30 goods, wares or merchandise, or value thereof, returned by customers if the  
31 sale price is refunded either in cash or by credit, nor the value of  
32 merchandise traded in on the purchase of new merchandise when the trade-in  
33 allowance is deducted from the sales price of the new merchandise before  
34 completion of the sale.  
35 ~~7.~~ 9. "Gross receipts" means the total amount of the sale, lease or  
36 rental price, as the case may be, of the retail sales of retailers, including  
37 any services that are a part of the sales, valued in money, whether received  
38 in money or otherwise, including all receipts, cash, credits and property of  
39 every kind or nature, and any amount for which credit is allowed by the  
40 seller to the purchaser without any deduction from the amount on account of  
41 the cost of the property sold, materials used, labor or service performed,  
42 interest paid, losses or any other expense. Gross receipts do not include  
43 cash discounts allowed and taken nor the sale price of property returned by  
44 customers if the full sale price is refunded either in cash or by credit.

~~8-~~ 10. "Person" or "company" includes an individual, firm, partnership, joint venture, association, corporation, estate or trust, this state, any county, city, town, district, other than a school district, or other political subdivision and any other group or combination acting as a unit, and the plural as well as the singular number.

~~9-~~ 11. "Qualifying community health center":

(a) Means an entity that is recognized as nonprofit under section 501(c)(3) of the United States internal revenue code, that is a community-based, primary care clinic that has a community-based board of directors and that is either:

(i) The sole provider of primary care in the community.

(ii) A nonhospital affiliated clinic that is located in a federally designated medically underserved area in this state.

(b) Includes clinics that are being constructed as qualifying community health centers.

~~10-~~ 12. "Qualifying health care organization" means an entity that is recognized as nonprofit under section 501(c) of the United States internal revenue code and that uses, saves or invests at least eighty per cent of all monies that it receives from all sources each year only for health and medical related educational and charitable services, as documented by annual financial audits prepared by an independent certified public accountant, performed according to generally accepted auditing standards and filed annually with the department. Monies that are used, saved or invested to lease, purchase or construct a facility for health and medical related education and charitable services are included in the eighty per cent requirement.

~~11-~~ 13. "Qualifying hospital" means any of the following:

(a) A licensed hospital ~~which~~ THAT is organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(b) A licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.

(c) A hospital, nursing care institution or residential care institution ~~which~~ THAT is operated by the federal government, this state or a political subdivision of this state.

(d) A facility that is under construction and that on completion will be a facility under subdivision (a), (b) or (c) of this paragraph.

~~12-~~ 14. "Retailer" includes every person engaged in the business classified under the retail classification pursuant to section 42-5061 and, when in the opinion of the department it is necessary for the efficient administration of this article, includes dealers, distributors, supervisors, employers and salesmen, representatives, peddlers or canvassers as the agents

1 of the dealers, distributors, supervisors or employers under whom they  
 2 operate or from whom they obtain the tangible personal property sold by them,  
 3 whether in making sales on their own behalf or on behalf of the dealers,  
 4 distributors, supervisors or employers.

5 ~~13-~~ 15. "Sale" means any transfer of title or possession, or both,  
 6 exchange, barter, lease or rental, conditional or otherwise, in any manner or  
 7 by any means whatever, including consignment transactions and auctions, of  
 8 tangible personal property or other activities taxable under this chapter,  
 9 for a consideration, and includes:

10 (a) Any transaction by which the possession of property is transferred  
 11 but the seller retains the title as security for the payment of the price.

12 (b) Fabricating tangible personal property for consumers who furnish  
 13 either directly or indirectly the materials used in the fabrication work.

14 (c) Furnishing, preparing or serving for a consideration any tangible  
 15 personal property consumed on the premises of the person furnishing,  
 16 preparing or serving the tangible personal property.

17 ~~14-~~ 16. "Solar daylighting" means a device that is specifically  
 18 designed to capture and redirect the visible portion of the solar beam, while  
 19 controlling the infrared portion, for use in illuminating interior building  
 20 spaces in lieu of artificial lighting.

21 ~~15-~~ 17. "Solar energy device" means a system or series of mechanisms  
 22 designed primarily to provide heating, to provide cooling, to produce  
 23 electrical power, to produce mechanical power, to provide solar daylighting  
 24 or to provide any combination of the foregoing by means of collecting and  
 25 transferring solar generated energy into such uses either by active or  
 26 passive means, including wind generator systems that produce electricity.  
 27 Solar energy systems may also have the capability of storing solar energy for  
 28 future use. Passive systems shall clearly be designed as a solar energy  
 29 device, such as a trombe wall, and not merely as a part of a normal  
 30 structure, such as a window.

31 ~~16-~~ 18. "Tangible personal property" means personal property ~~which~~  
 32 ~~THAT~~ may be seen, weighed, measured, felt or touched or ~~THAT~~ is in any other  
 33 manner perceptible to the senses.

34 ~~17-~~ 19. "Tax year" or "taxable year" means either the calendar year or  
 35 the taxpayer's fiscal year, if permission is obtained from the department to  
 36 use a fiscal year as the tax period instead of the calendar year.

37 ~~18-~~ 20. "Taxpayer" means any person who is liable for any tax ~~which~~  
 38 ~~THAT~~ is imposed by this article.

39 ~~19-~~ 21. "Wholesaler" or "jobber" means any person who sells tangible  
 40 personal property for resale and not for consumption by the purchaser.

41 Sec. 6. Section 42-5006, Arizona Revised Statutes, is amended to read:

42 ~~42-5006.~~ Taxpayer bonds; out of state licensed contractors and  
 43 manufactured building dealers

44 A. Notwithstanding section 42-1102, the department shall require a  
 45 surety bond for each taxpayer ~~who is required to be licensed under title 32,~~

1 ~~chapter 10 or~~ who is regulated under title 41, chapter 16, article 2, if the  
 2 taxpayer's principal place of business is outside this state or if the  
 3 taxpayer has conducted business in this state for less than one year. The  
 4 department shall prescribe the form of the bond. The bond shall be maintained  
 5 for a period of at least two years.

6 B. The bond, duly executed by the applicant as principal and with a  
 7 corporation duly authorized to execute and write bonds in this state as  
 8 surety, shall be payable to this state and conditioned on the payment of all  
 9 transaction privilege taxes incurred and imposed on the taxpayer by this  
 10 state and its political subdivisions. The bond shall be in such amount, but  
 11 not less than two thousand dollars, as will assure the payment of the  
 12 transaction privilege taxes ~~which~~ THAT may reasonably be expected to be  
 13 incurred by the licensed establishment for a period of one hundred fifty  
 14 days.

15 C. The director, by rule, may establish classes of expected tax  
 16 liability in five thousand dollar increments, beginning with the minimum bond  
 17 amount prescribed in subsection B of this section. The bond shall provide  
 18 that after notice and a hearing the director may order forfeited to this  
 19 state and any affected political subdivision part or all of the bond for  
 20 nonpayment of taxes, interest and penalties.

21 D. A licensee on application for a new license covered by subsection A  
 22 of this section, renewal of a license covered by subsection A of this section  
 23 or transfer of a license covered by subsection A of this section is exempt  
 24 from posting a bond if the licensee has for at least two years immediately  
 25 preceding the application made timely payment of all transaction privilege  
 26 taxes incurred.

27 E. If a licensee is not exempt from this section, the director may  
 28 exempt the licensee if the director finds that the surety bond is not  
 29 necessary to ~~insure~~ ENSURE payment of such taxes to the state and any  
 30 affected political subdivision or the licensee had good cause for the late or  
 31 insufficient payment of the transaction privilege tax and affiliated excise  
 32 taxes incurred.

33 Sec. 7. Repeal

34 Section ~~42-5007~~, Arizona Revised Statutes, is repealed from and after  
 35 December 31, 2014.

36 Sec. 8. Section 42-5009, Arizona Revised Statutes, is amended to read:

37 ~~42-5009.~~ Certificates establishing deductions; liability for  
 38 making false certificate

39 A. A person who conducts any business classified under article 2 of  
 40 this chapter may establish entitlement to the allowable deductions from the  
 41 tax base of that business by both:

42 1. Marking the invoice for the transaction to indicate that the gross  
 43 proceeds of sales or gross income derived from the transaction was deducted  
 44 from the tax base.

1           2. Obtaining a certificate executed by the purchaser indicating the  
2 name and address of the purchaser, the precise nature of the business of the  
3 purchaser, the purpose for which the purchase was made, the necessary facts  
4 to establish the appropriate deduction and the tax license number of the  
5 purchaser to the extent the deduction depends on the purchaser conducting  
6 business classified under article 2 of this chapter and a certification that  
7 the person executing the certificate is authorized to do so on behalf of the  
8 purchaser. The certificate may be disregarded if the seller has reason to  
9 believe that the information contained in the certificate is not accurate or  
10 complete.

11           B. A person who does not comply with subsection A of this section may  
12 establish entitlement to the deduction by presenting facts necessary to  
13 support the entitlement, but the burden of proof is on that person.

14           C. The department may prescribe a form for the certificate described  
15 in subsection A of this section. Under such rules as it may prescribe, the  
16 department may also describe transactions with respect to which a person is  
17 not entitled to rely solely on the information contained in the certificate  
18 provided for in subsection A of this section but must instead obtain such  
19 additional information as required by the rules in order to be entitled to  
20 the deduction.

21           D. If a seller is entitled to a deduction by complying with subsection  
22 A of this section, the department may require the purchaser that caused the  
23 execution of the certificate to establish the accuracy and completeness of  
24 the information required to be contained in the certificate that would  
25 entitle the seller to the deduction. If the purchaser cannot establish the  
26 accuracy and completeness of the information, the purchaser is liable in an  
27 amount equal to any tax, penalty and interest that the seller would have been  
28 required to pay under this article if the seller had not complied with  
29 subsection A of this section. Payment of the amount under this subsection  
30 exempts the purchaser from liability for any tax imposed under article 4 of  
31 this chapter. The amount shall be treated as tax revenues collected from the  
32 seller in order to designate the distribution base for purposes of section  
33 42-5029.

34           E. If a seller is entitled to a deduction by complying with subsection  
35 B of this section, the department may require the purchaser to establish the  
36 accuracy and completeness of the information provided to the seller that  
37 entitled the seller to the deduction. If the purchaser cannot establish the  
38 accuracy and completeness of the information, the purchaser is liable in an  
39 amount equal to any tax, penalty and interest that the seller would have been  
40 required to pay under this article if the seller had not complied with  
41 subsection B of this section. Payment of the amount under this subsection  
42 exempts the purchaser from liability for any tax imposed under article 4 of  
43 this chapter. The amount shall be treated as tax revenues collected from the  
44 seller in order to designate the distribution base for purposes of section  
45 42-5029.

1 F. The department may prescribe a form for a certificate used to  
2 establish entitlement to the deductions described in section 42-5061,  
3 subsection A, paragraph ~~47~~ 45 and section 42-5063, subsection B, paragraph 3.  
4 Under rules the department may prescribe, the department may also require  
5 additional information for the seller to be entitled to the deduction. If a  
6 seller is entitled to the deductions described in section 42-5061, subsection  
7 A, paragraph ~~47~~ 45 and section 42-5063, subsection B, paragraph 3, the  
8 department may require the purchaser who executed the certificate to  
9 establish the accuracy and completeness of the information contained in the  
10 certificate that would entitle the seller to the deduction. If the purchaser  
11 cannot establish the accuracy and completeness of the information, the  
12 purchaser is liable in an amount equal to any tax, penalty and interest that  
13 the seller would have been required to pay under this article. Payment of  
14 the amount under this subsection exempts the purchaser from liability for any  
15 tax imposed under article 4 of this chapter. The amount shall be treated as  
16 tax revenues collected from the seller in order to designate the distribution  
17 base for purposes of section 42-5029.

18 G. If a seller claims a deduction under section 42-5061, subsection A,  
19 paragraph ~~25~~ 24 and establishes entitlement to the deduction with an  
20 exemption letter that the purchaser received from the department and the  
21 exemption letter was based on a contingent event, the department may require  
22 the purchaser that received the exemption letter to establish the  
23 satisfaction of the contingent event within a reasonable time. If the  
24 purchaser cannot establish the satisfaction of the event, the purchaser is  
25 liable in an amount equal to any tax, penalty and interest that the seller  
26 would have been required to pay under this article if the seller had not been  
27 furnished the exemption letter. Payment of the amount under this subsection  
28 exempts the purchaser from liability for any tax imposed under article 4 of  
29 this chapter. The amount shall be treated as tax revenues collected from the  
30 seller in order to designate the distribution base for purposes of section  
31 42-5029. For the purposes of this subsection, "reasonable time" means a time  
32 limitation that the department determines and that does not exceed the time  
33 limitations pursuant to section 42-1104.

34 H. The department shall prescribe forms for certificates used to  
35 establish the satisfaction of the criteria necessary to qualify the sale of a  
36 motor vehicle for the deductions described in section 42-5061, subsection A,  
37 paragraph 14, paragraph ~~28~~ 27, subdivision (a) and paragraph ~~45~~ 43 and  
38 subsection U. To establish entitlement to these deductions, a motor vehicle  
39 dealer shall retain:

40 1. A valid certificate as prescribed by this subsection completed by  
41 the purchaser and obtained prior to the issuance of the nonresident  
42 registration permit authorized by section 28-2154.

43 2. A copy of the nonresident registration permit authorized by section  
44 28-2154.



3. A legible copy of a current valid driver license issued to the purchaser by another state or foreign country that indicates an address outside of this state. For the sale of a motor vehicle to a nonresident entity, the entity's representative must have a current valid driver license issued by the same jurisdiction as that in which the entity is located.

~~4. For the purposes of the deduction provided by section 42-5061, subsection A, paragraph 14, a certificate documenting the delivery of the motor vehicle to an out-of-state location.~~

I. Notwithstanding subsection A, paragraph 2 of this section, if a motor vehicle dealer has established entitlement to a deduction by complying with subsection H of this section, the department may require the purchaser who executed the certificate to establish the accuracy and completeness of the information contained in the certificate that entitled the motor vehicle dealer to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the motor vehicle dealer would have been required to pay under this article and under articles IV and V of the model city tax code as defined in section 42-6051. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and any tax imposed under article VI of the model city tax code as defined in section 42-6051. The amount shall be treated as tax revenues collected from the motor vehicle dealer in order to designate the distribution base for purposes of section 42-5029.

~~J. Notwithstanding any other law, compliance with subsection H of this section by a motor vehicle dealer entitles the motor vehicle dealer to the exemption provided in section 42-6004, subsection A, paragraph 4.~~

Sec. 9. Section 42-5010, Arizona Revised Statutes, is amended to read:  
42-5010. Rates: distribution base

A. The tax imposed by this article is levied and shall be collected at the following rates:

1. Five per cent of the tax base as computed for the business of every person engaging or continuing in this state in the following business classifications described in article 2 of this chapter:

- (a) Transporting classification.
- (b) Utilities classification.
- (c) Telecommunications classification.
- (d) Pipeline classification.
- (e) Private car line classification.
- (f) Publication classification.
- (g) Job printing classification.
- (h) ~~Prime contracting~~ MANUFACTURED BUILDING DEALER classification.
- ~~(i) Owner builder sales classification.~~
- ~~(j)~~ (i) Amusement classification.
- ~~(k)~~ (j) Restaurant classification.

1           ~~(j)~~ (k) Personal property rental classification.

2           ~~(m)~~ (l) Retail classification.

3           2. Five and one-half per cent of the tax base as computed for the  
4 business of every person engaging or continuing in this state in the  
5 transient lodging classification described in section 42-5070.

6           3. Three and one-eighth per cent of the tax base as computed for the  
7 business of every person engaging or continuing in this state in the mining  
8 classification described in section 42-5072.

9           4. Zero per cent of the tax base as computed for the business of every  
10 person engaging or continuing in this state in the commercial lease  
11 classification described in section 42-5069.

12           B. Except as provided by subsection J of this section, twenty per cent  
13 of the tax revenues collected at the rate prescribed by subsection A,  
14 paragraph 1 of this section from persons on account of engaging in business  
15 under the business classifications listed in subsection A, paragraph 1,  
16 subdivisions (a) through ~~(j)~~ (h) of this section is designated as  
17 distribution base for purposes of section 42-5029.

18           C. Forty per cent of the tax revenues collected at the rate prescribed  
19 by subsection A, paragraph 1 of this section from persons on account of  
20 engaging in business under the business classifications listed in subsection  
21 A, paragraph 1, subdivisions ~~(j)~~ (i) through ~~(m)~~ (l) of this section is  
22 designated as distribution base for purposes of section 42-5029.

23           D. Thirty-two per cent of the tax revenues collected from persons on  
24 account of engaging in business under the business classification listed in  
25 subsection A, paragraph 3 of this section is designated as distribution base  
26 for purposes of section 42-5029.

27           E. Fifty-three and one-third per cent of the tax revenues collected  
28 from persons on account of engaging in business under the business  
29 classification listed in subsection A, paragraph 4 of this section is  
30 designated as distribution base for purposes of section 42-5029.

31           F. Fifty per cent of the tax revenues collected from persons on  
32 account of engaging in business under the business classification listed in  
33 subsection A, paragraph 2 of this section is designated as distribution base  
34 for purposes of section 42-5029.

35           G. In addition to the rates prescribed by subsection A of this  
36 section, if approved by the qualified electors voting at a statewide general  
37 election, an additional rate increment is imposed and shall be collected  
38 through June 30, 2021. The taxpayer shall pay taxes pursuant to this  
39 subsection at the same time and in the same manner as under subsection A of  
40 this section. The department shall separately account for the revenues  
41 collected with respect to the rates imposed pursuant to this subsection and  
42 the state treasurer shall distribute all of those revenues in the manner  
43 prescribed by section 42-5029, subsection E. The rates imposed pursuant to  
44 this subsection shall not be considered local revenues for purposes of  
45 article IX, section 21, Constitution of Arizona. The additional tax rate

1 increment is levied at the rate of six-tenths of one per cent of the tax base  
 2 of every person engaging or continuing in this state in a business  
 3 classification listed in subsection A, paragraph 1 of this section.

4 ~~H. Any increase in the rate of tax that is imposed by this chapter and~~  
 5 ~~that is enacted by the legislature or by a vote of the people does not apply~~  
 6 ~~with respect to contracts entered into by prime contractors or pursuant to~~  
 7 ~~written bids made by prime contractors on or before the effective date of the~~  
 8 ~~legislation or the date of the election enacting the increase. To qualify~~  
 9 ~~for the exemption under this subsection, the prime contractor must maintain~~  
 10 ~~sufficient documentation, in a manner and form prescribed by the department,~~  
 11 ~~to verify the date of the contract or written bid.~~

12 ~~I. H. For taxpayers taxable under this chapter other than prime~~  
 13 ~~contractors taxable pursuant to section 42-5075:~~

14 1. Any increase in the rate of tax that is levied by this article or  
 15 article 2 of this chapter enacted by the legislature or by a vote of the  
 16 people does not apply for a period of one hundred twenty days from the date  
 17 of the tax rate increase to the gross proceeds of sales or gross income from  
 18 the business of the taxpayer with respect to written contracts entered into  
 19 before the effective date of the tax rate increase unless the taxpayer has  
 20 entered into a contract that contains a provision that entitles the taxpayer  
 21 to recover from the purchaser the amount of the additional tax levied.

22 2. The provisions of this subsection apply without regard to the  
 23 accounting method used by the taxpayer to report the taxes imposed under  
 24 article 2 of this chapter.

25 3. The provisions of this subsection shall not be considered in  
 26 determining the rate of tax imposed under chapter 6, article 3 of this title.

27 ~~J. I.~~ I. Zero per cent of the tax revenues that are collected at the  
 28 rate prescribed by subsection A, paragraph 1 of this section from persons on  
 29 account of engaging in business under the business classification listed in  
 30 subsection A, paragraph 1, subdivision ~~(h)~~ (l) of this section, and that are  
 31 subject to any distribution required by section 42-5032.02, is designated as  
 32 distribution base for the purposes of section 42-5029 until the total amount  
 33 subject to distribution pursuant to section 42-5032.02 has reached the  
 34 maximum amount prescribed by section 42-5032.02, subsection C. Thereafter,  
 35 ~~twenty~~ FORTY per cent of the remaining tax revenues is designated as  
 36 distribution base for the purposes of section 42-5029 as provided by  
 37 subsection B of this section.

38 Sec. 10. Section 42-5029, Arizona Revised Statutes, is amended to  
 39 read:

40 42-5029. Remission and distribution of monies; definition

41 A. The department shall deposit, pursuant to sections 35-146 and  
 42 35-147, all revenues collected under this article and articles 4, 5 and 8 of  
 43 this chapter pursuant to section 42-1116, separately accounting for:

- 44 1. Payments of estimated tax under section 42-5014, subsection D.
- 45 2. Revenues collected pursuant to section 42-5070.

3. Revenues collected under this article and article 5 of this chapter from and after June 30, 2000 from sources located on Indian reservations in this state.

4. Revenues collected pursuant to section 42-5010, subsection G and section 42-5155, subsection ~~D~~ E.

B. The department shall credit payments of estimated tax to an estimated tax clearing account and each month shall transfer all monies in the estimated tax clearing account to a fund designated as the transaction privilege and severance tax clearing account. The department shall credit all other payments to the transaction privilege and severance tax clearing account, separately accounting for the monies designated as distribution base under sections 42-5010, 42-5164, 42-5205 and 42-5353. Each month the department shall report to the state treasurer the amount of monies collected pursuant to this article and articles 4, 5 and 8 of this chapter.

C. On notification by the department, the state treasurer shall distribute the monies deposited in the transaction privilege and severance tax clearing account in the manner prescribed by this section and by sections 42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the account pursuant to sections 42-1118 and 42-1254.

D. Of the monies designated as distribution base the department shall:

1. Pay twenty-five per cent to the various incorporated municipalities in this state in proportion to their population to be used by the municipalities for any municipal purpose.

2. Pay 38.08 per cent to the counties in this state by averaging the following proportions:

(a) The proportion that the population of each county bears to the total state population.

(b) The proportion that the distribution base monies collected during the calendar month in each county under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 bear to the total distribution base monies collected under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 throughout the state for the calendar month.

3. Pay an additional 2.43 per cent to the counties in this state as follows:

(a) Average the following proportions:

(i) The proportion that the assessed valuation used to determine secondary property taxes of each county, after deducting that part of the assessed valuation that is exempt from taxation at the beginning of the month for which the amount is to be paid, bears to the total assessed valuations used to determine secondary property taxes of all the counties after deducting that portion of the assessed valuations that is exempt from taxation at the beginning of the month for which the amount is to be paid. Property of a city or town that is not within or contiguous to the municipal corporate boundaries and from which water is or may be withdrawn or diverted

1 and transported for use on other property is considered to be taxable  
2 property in the county for purposes of determining assessed valuation in the  
3 county under this item.

4 (ii) The proportion that the distribution base monies collected during  
5 the calendar month in each county under this article, section 42-5164,  
6 subsection B, section 42-5205, subsection B and section 42-5353 bear to the  
7 total distribution base monies collected under this article, section 42-5164,  
8 subsection B, section 42-5205, subsection B and section 42-5353 throughout  
9 the state for the calendar month.

10 (b) If the proportion computed under subdivision (a) of this paragraph  
11 for any county is greater than the proportion computed under paragraph 2 of  
12 this subsection, the department shall compute the difference between the  
13 amount distributed to that county under paragraph 2 of this subsection and  
14 the amount that would have been distributed under paragraph 2 of this  
15 subsection using the proportion computed under subdivision (a) of this  
16 paragraph and shall pay that difference to the county from the amount  
17 available for distribution under this paragraph. Any monies remaining after  
18 all payments under this subdivision shall be distributed among the counties  
19 according to the proportions computed under paragraph 2 of this subsection.

20 4. After any distributions required by sections 42-5030, 42-5030.01,  
21 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making any transfer to  
22 the water quality assurance revolving fund as required by section 49-282,  
23 subsection B, credit the remainder of the monies designated as distribution  
24 base to the state general fund. From this amount the legislature shall  
25 annually appropriate to:

26 (a) The department of revenue sufficient monies to administer and  
27 enforce this article and articles 5 and 8 of this chapter.

28 (b) The department of economic security monies to be used for the  
29 purposes stated in title 46, chapter 1.

30 (c) The firearms safety and ranges fund established by section 17-273,  
31 fifty thousand dollars derived from the taxes collected from the retail  
32 classification pursuant to section 42-5061 for the current fiscal year.

33 E. If approved by the qualified electors voting at a statewide general  
34 election, all monies collected pursuant to section 42-5010, subsection G and  
35 section 42-5155, subsection ~~D~~ E shall be distributed each fiscal year  
36 pursuant to this subsection. The monies distributed pursuant to this  
37 subsection are in addition to any other appropriation, transfer or other  
38 allocation of public or private monies from any other source and shall not  
39 supplant, replace or cause a reduction in other school district, charter  
40 school, university or community college funding sources. The monies shall be  
41 distributed as follows:

42 1. If there are outstanding state school facilities revenue bonds  
43 pursuant to title 15, chapter 16, article 7, each month one-twelfth of the  
44 amount that is necessary to pay the fiscal year's debt service on outstanding  
45 state school improvement revenue bonds for the current fiscal year shall be

1 transferred each month to the school improvement revenue bond debt service  
2 fund established by section 15-2084. The total amount of bonds for which  
3 these monies may be allocated for the payment of debt service shall not  
4 exceed a principal amount of eight hundred million dollars exclusive of  
5 refunding bonds and other refinancing obligations.

6 2. After any transfer of monies pursuant to paragraph 1 of this  
7 subsection, twelve per cent of the remaining monies collected during the  
8 preceding month shall be transferred to the technology and research  
9 initiative fund established by section 15-1648 to be distributed among the  
10 universities for the purpose of investment in technology and research-based  
11 initiatives.

12 3. After the transfer of monies pursuant to paragraph 1 of this  
13 subsection, three per cent of the remaining monies collected during the  
14 preceding month shall be transferred to the workforce development account  
15 established in each community college district pursuant to section 15-1472  
16 for the purpose of investment in workforce development programs.

17 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
18 subsection, one-twelfth of the amount a community college that is owned,  
19 operated or chartered by a qualifying Indian tribe on its own Indian  
20 reservation would receive pursuant to section 15-1472, subsection D,  
21 paragraph 2 if it were a community college district shall be distributed each  
22 month to the treasurer or other designated depository of a qualifying Indian  
23 tribe. Monies distributed pursuant to this paragraph are for the exclusive  
24 purpose of providing support to one or more community colleges owned,  
25 operated or chartered by a qualifying Indian tribe and shall be used in a  
26 manner consistent with section 15-1472, subsection B. For the purposes of  
27 this paragraph, "qualifying Indian tribe" has the same meaning as defined in  
28 section 42-5031.01, subsection D.

29 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
30 subsection, one-twelfth of the following amounts shall be transferred each  
31 month to the department of education for the increased cost of basic state  
32 aid under section 15-971 due to added school days and associated teacher  
33 salary increases enacted in 2000:

34 (a) In fiscal year 2001-2002, \$15,305,900.

35 (b) In fiscal year 2002-2003, \$31,530,100.

36 (c) In fiscal year 2003-2004, \$48,727,700.

37 (d) In fiscal year 2004-2005, \$66,957,200.

38 (e) In fiscal year 2005-2006 and each fiscal year thereafter,  
39 \$86,280,500.

40 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
41 subsection, seven million eight hundred thousand dollars is appropriated each  
42 fiscal year, to be paid in monthly installments, to the department of  
43 education to be used for school safety as provided in section 15-154 and two  
44 hundred thousand dollars is appropriated each fiscal year, to be paid in

1 monthly installments to the department of education to be used for the  
2 character education matching grant program as provided in section 15-154.01.

3 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
4 subsection, no more than seven million dollars may be appropriated by the  
5 legislature each fiscal year to the department of education to be used for  
6 accountability purposes as described in section 15-241 and title 15, chapter  
7 9, article 8.

8 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
9 subsection, one million five hundred thousand dollars is appropriated each  
10 fiscal year, to be paid in monthly installments, to the failing schools  
11 tutoring fund established by section 15-241.

12 9. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
13 subsection, twenty-five million dollars shall be transferred each fiscal year  
14 to the state general fund to reimburse the general fund for the cost of the  
15 income tax credit allowed by section 43-1072.01.

16 10. After the payment of monies pursuant to paragraphs 1 through 9 of  
17 this subsection, the remaining monies collected during the preceding month  
18 shall be transferred to the classroom site fund established by section  
19 15-977. The monies shall be allocated as follows in the manner prescribed by  
20 section 15-977:

21 (a) Forty per cent shall be allocated for teacher compensation based  
22 on performance.

23 (b) Twenty per cent shall be allocated for increases in teacher base  
24 compensation and employee related expenses.

25 (c) Forty per cent shall be allocated for maintenance and operation  
26 purposes.

27 F. The department shall credit the remainder of the monies in the  
28 transaction privilege and severance tax clearing account to the state general  
29 fund, subject to any distribution required by section 42-5030.01.

30 G. Notwithstanding subsection D of this section, if a court of  
31 competent jurisdiction finally determines that tax monies distributed under  
32 this section were illegally collected under this article or articles 5 and 8  
33 of this chapter and orders the monies to be refunded to the taxpayer, the  
34 department shall compute the amount of such monies that was distributed to  
35 each city, town and county under this section. The department shall notify  
36 the state treasurer of that amount plus the proportionate share of additional  
37 allocated costs required to be paid to the taxpayer. Each city's, town's and  
38 county's proportionate share of the costs shall be based on the amount of the  
39 original tax payment each municipality and county received. Each month the  
40 state treasurer shall reduce the amount otherwise distributable to the city,  
41 town and county under this section by one thirty-sixth of the total amount to  
42 be recovered from the city, town or county until the total amount has been  
43 recovered, but the monthly reduction for any city, town or county shall not  
44 exceed ten per cent of the full monthly distribution to that entity. The  
45 reduction shall begin for the first calendar month after the final

1 disposition of the case and shall continue until the total amount, including  
2 interest and costs, has been recovered.

3 H. On receiving a certificate of default from the greater Arizona  
4 development authority pursuant to section 41-2257 or 41-2258 and to the  
5 extent not otherwise expressly prohibited by law, the state treasurer shall  
6 withhold from the next succeeding distribution of monies pursuant to this  
7 section due to the defaulting political subdivision the amount specified in  
8 the certificate of default and immediately deposit the amount withheld in the  
9 greater Arizona development authority revolving fund. The state treasurer  
10 shall continue to withhold and deposit the monies until the greater Arizona  
11 development authority certifies to the state treasurer that the default has  
12 been cured. In no event may the state treasurer withhold any amount that the  
13 defaulting political subdivision certifies to the state treasurer and the  
14 authority as being necessary to make any required deposits then due for the  
15 payment of principal and interest on bonds of the political subdivision that  
16 were issued before the date of the loan repayment agreement or bonds and that  
17 have been secured by a pledge of distributions made pursuant to this section.

18 I. Except as provided by sections 42-5033 and 42-5033.01, the  
19 population of a county, city or town as determined by the most recent United  
20 States decennial census plus any revisions to the decennial census certified  
21 by the United States bureau of the census shall be used as the basis for  
22 apportioning monies pursuant to subsection D of this section.

23 J. Except as otherwise provided by this subsection, on notice from the  
24 department of revenue pursuant to section 42-6010, subsection B, the state  
25 treasurer shall withhold from the distribution of monies pursuant to this  
26 section to the affected city or town the amount of the penalty for business  
27 location municipal tax incentives provided by the city or town to a business  
28 entity that locates a retail business facility in the city or town. The  
29 state treasurer shall continue to withhold monies pursuant to this subsection  
30 until the entire amount of the penalty has been withheld. The state  
31 treasurer shall credit any monies withheld pursuant to this subsection to the  
32 state general fund as provided by subsection D, paragraph 4 of this section.  
33 The state treasurer shall not withhold any amount that the city or town  
34 certifies to the department of revenue and the state treasurer as being  
35 necessary to make any required deposits or payments for debt service on bonds  
36 or other long-term obligations of the city or town that were issued or  
37 incurred before the location incentives provided by the city or town.

38 K. On notice from the auditor general pursuant to section 9-626,  
39 subsection D, the state treasurer shall withhold from the distribution of  
40 monies pursuant to this section to the affected city the amount computed  
41 pursuant to section 9-626, subsection D. The state treasurer shall continue  
42 to withhold monies pursuant to this subsection until the entire amount  
43 specified in the notice has been withheld. The state treasurer shall credit  
44 any monies withheld pursuant to this subsection to the state general fund as  
45 provided by subsection D, paragraph 4 of this section.



1 L. For the purposes of this section, "community college district"  
 2 means a community college district that is established pursuant to sections  
 3 15-1402 and 15-1403 and that is a political subdivision of this state and,  
 4 unless otherwise specified, includes a community college district established  
 5 pursuant to section 15-1402.01 and a provisional community college district  
 6 established pursuant to section 15-1409.

7 Sec. 11. Section 42-5032.01, Arizona Revised Statutes, is amended to  
 8 read:

9 42-5032.01. Distribution of revenues for tourism and sports  
 10 authority

11 A. Each month the state treasurer shall pay, from the amount  
 12 designated as distribution base pursuant to section 42-5029, subsection D,  
 13 the amount determined under subsection B of this section to the tourism and  
 14 sports authority for deposit in the authority's facility revenue clearing  
 15 account established by section 5-834.

16 B. The amount to be paid under subsection A of this section is the  
 17 total amount of state transaction privilege tax revenues received from  
 18 persons conducting business under:

19 1. The retail, amusement and restaurant classifications at, or with  
 20 respect to events held at, a multipurpose facility that is owned or operated  
 21 by the authority pursuant to title 5, chapter 8.

22 2. The retail, amusement and restaurant classifications at, or with  
 23 respect to, professional football contests that are held beginning July,  
 24 2001 in a stadium located on the campus of an institution under the  
 25 jurisdiction of the Arizona board of regents.

26 ~~C. Each month the state treasurer shall pay, from the amount~~  
 27 ~~designated as distribution base pursuant to section 42-5029, subsection D,~~  
 28 ~~the total amount of state transaction privilege tax revenues received from~~  
 29 ~~persons conducting business under the prime contracting classification at a~~  
 30 ~~multipurpose facility that is owned or operated by the tourism and sports~~  
 31 ~~authority pursuant to title 5, chapter 8 for deposit in the authority's~~  
 32 ~~construction account established by section 5-833.~~

33 ~~D.~~ C. The department shall report the ~~amounts~~ AMOUNT under  
 34 ~~subsections SUBSECTION B and C~~ of this section to the state treasurer on or  
 35 before the fifteenth day of each month for payment in the following month.

36 Sec. 12. Section 42-5032.02, Arizona Revised Statutes, is amended to  
 37 read:

38 42-5032.02. Distribution of revenues for city, town or county  
 39 infrastructure improvements related to  
 40 manufacturing facilities; definitions

41 A. Subject to subsection B of this section, from and after September  
 42 30, 2013 through September 30, 2023, each month the state treasurer shall pay  
 43 a city, town or county the amount determined under subsection C of this  
 44 section for the purpose of funding up to eighty per cent of the cost of

1 public infrastructure improvements for the benefit of a manufacturing  
2 facility.

3 B. The state treasurer shall not make any payments under subsection C  
4 of this section until both of the following apply:

5 1. Twenty-five per cent of the capital investment that is certified  
6 under subsection D of this section and that constitutes ~~construction phase~~  
7 ~~services, as defined in section 42-5075,~~ CONTRACTING ACTIVITY has been made  
8 by the manufacturing facility.

9 2. From and after June 30, 2014.

10 C. The amount to be paid to a city, town or county under subsection A  
11 of this section is the total amount of state transaction privilege tax  
12 revenues collected under section 42-5010, subsection A ~~from persons~~  
13 ~~conducting business under section 42-5075 derived from~~ FOR SALES OF MATERIALS  
14 USED IN contracts to construct buildings and associated improvements for the  
15 benefit of a manufacturing facility. THE AMOUNT TO BE DISTRIBUTED EACH MONTH  
16 SHALL BE PAID IN EQUAL INSTALLMENTS OVER THE LIFE OF THE CONTRACT TO  
17 CONSTRUCT BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF THE  
18 MANUFACTURING FACILITY. The total amount paid to all cities, towns and  
19 counties under this subsection shall not exceed a maximum of fifty million  
20 dollars.

21 D. Before the commencement of the construction of buildings and  
22 associated improvements for the benefit of a manufacturing facility that will  
23 require a city, town or county to make infrastructure improvements, the  
24 manufacturing facility shall file a sworn certification with the Arizona  
25 commerce authority, and submit a copy of this sworn certification to the  
26 applicable city, town or county, that the manufacturing facility agrees to  
27 PROVIDE A COPY OF THE CONSTRUCTION CONTRACT SHOWING THE COST OF THE MATERIALS  
28 TO BE USED IN THE CONSTRUCTION OF BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR  
29 THE MANUFACTURING FACILITY AND TO either:

30 1. Make at least five hundred million dollars in capital investment if  
31 the manufacturing facility is located in a county that has a population of  
32 eight hundred thousand persons or more.

33 2. Make at least fifty million dollars in capital investment if the  
34 manufacturing facility is located in a county that has a population of less  
35 than eight hundred thousand persons.

36 E. The certification under subsection D of this section shall contain  
37 a sworn statement or certification, signed by an officer of the manufacturing  
38 facility under penalty of perjury, that the information contained is true and  
39 correct according to the best belief and knowledge of the person submitting  
40 the information to the department after a reasonable investigation of the  
41 facts.

42 F. On receipt of a sworn certification from a manufacturing facility  
43 pursuant to subsection D of this section and before the commencement of the  
44 construction of buildings and associated improvements for the benefit of a  
45 manufacturing facility that will require a city, town or county to make

1 infrastructure improvements, the city, town or county shall enter into a  
2 written agreement with the department. This agreement and any amendments or  
3 changes to the agreement shall:

4 1. State the cost of the public infrastructure improvements and  
5 separately identify the particular improvements that will be made, **INCLUDING**  
6 **SPECIFICALLY IDENTIFYING THE COST OF MATERIALS USED.**

7 2. State that the monies received under this section will be used  
8 exclusively to pay for public infrastructure improvements that are necessary  
9 to support the activities of the manufacturing facility.

10 3. State that the city, town or county will pay a minimum of twenty  
11 per cent of the cost of the public infrastructure improvements with its own  
12 monies or with monies from the manufacturing facility.

13 4. State that the city, town or county will immediately notify the  
14 department when monies received under this section exceed eighty per cent of  
15 the cost of the infrastructure improvements and will return the amount of the  
16 excess to the state treasurer for deposit to the state general fund.

17 5. Stipulate the actual amount of the construction funding that will  
18 be derived from sources other than the state.

19 ~~6. Identify the persons who will be prime contractors on the~~  
20 ~~construction of buildings and associated improvements for the benefit of a~~  
21 ~~manufacturing facility and state that each prime contractor has been notified~~  
22 ~~as to which portion of the contractor's income shall be separately identified~~  
23 ~~to the department pursuant to section 42-5075, subsection H.~~

24 ~~7.~~ 6. State that the city, town or county agrees that any amounts  
25 paid by the department to a ~~prime contractor as identified under paragraph 6~~  
26 ~~of this subsection resulting from an audit adjustment or claim for credit or~~  
27 ~~refund of taxes described in subsection C of this section~~ **CITY, TOWN OR**  
28 **COUNTY THAT EXCEED THE AMOUNT OF THE TRANSACTION PRIVILEGE TAX PAID ON THE**  
29 **SALE OF MATERIALS USED IN THE CONSTRUCTION OF BUILDINGS OR OTHER ASSOCIATED**  
30 **IMPROVEMENTS FOR THE BENEFIT OF THE MANUFACTURING FACILITY** shall be recovered  
31 by the department from the city, town or county by reducing the amount paid  
32 to the city, town or county under section 42-5029 from monies designated as  
33 distribution base in the month next succeeding the month in which the  
34 adjustment or claim is paid.

35 ~~8.~~ 7. State that the city, town or county agrees that the department  
36 will use the amounts subject to any distribution required under subsection A  
37 of this section in calculating the maximum amount set by subsection C of this  
38 section.

39 ~~9. State that the city, town or county agrees that if, on notification~~  
40 ~~by the department, the state treasurer ceases payments because of the~~  
41 ~~condition described in subsection G of this section, the city, town or county~~  
42 ~~has no claim to additional payments if the department subsequently pays~~  
43 ~~amounts to a prime contractor identified in an agreement with any city, town~~  
44 ~~or county, as described in paragraph 6 of this subsection, due to an audit~~

~~adjustment or claim for credit or refund of taxes described in subsection C of this section.~~

~~10.~~ 8. Provide any other information deemed necessary by the department.

G. EACH YEAR AND ON COMPLETION OF THE CONTRACT TO CONSTRUCT BUILDINGS AND OTHER ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF A MANUFACTURING FACILITY, THE MANUFACTURING FACILITY SHALL PROVIDE A RECONCILIATION OF THE COST OF MATERIALS USED IN THE CONSTRUCTION OF THE BUILDINGS AND OTHER ASSOCIATED IMPROVEMENTS, INCLUDING AMOUNTS REPRESENTING A REIMBURSEMENT OF TRANSACTION PRIVILEGE TAXES PAID BY THE RETAILER.

~~G.~~ H. On notification by the department, the state treasurer shall cease payments under subsection A of this section if either of the following occurs:

1. A city, town or county has received monies that meet or exceed eighty per cent of the cost of the public infrastructure improvements that are necessary to support the activities related to the manufacturing facility as described in the written agreement pursuant to subsection ~~E~~ F of this section.

2. The total amount subject to any distribution required under subsection A of this section has met the maximum amount set by subsection C of this section.

~~H.~~ I. For the purposes of this section:

1. "Associated improvement" includes any public infrastructure improvement that is made for the benefit of the manufacturing facility outside of the parcel or parcels of real property where the manufacturing facility is located.

2. "Capital investment" means an expenditure to acquire, lease or improve property that is used for the benefit of a manufacturing facility, including land, buildings, machinery and fixtures.

3. "Manufacturing facility":

(a) Means an establishment THAT IS engaged in the mechanical, physical or chemical transformation or fabrication of materials, substances or components into new products in this state, ~~and~~ that is classified within sections 31 through 33 inclusive of the 2007 edition of the north American industry classification system as published by the national technical information service of the United States department of commerce and ~~the establishment~~ THAT agrees to either:

~~(a)~~ (i) Make at least five hundred million dollars in capital investment if the manufacturing facility is located in a county that has a population of eight hundred thousand persons or more.

~~(b)~~ (ii) Make at least fifty million dollars in capital investment if the manufacturing facility is located in a county that has a population of less than eight hundred thousand persons.

~~Manufacturing facility~~

1 (b) Does not include mining, milling or smelting mineral ore or  
2 generating electricity.

3 4. "Population" means the population determined in the most recent  
4 United States decennial census or the most recent special census as provided  
5 in section 28-6532.

6 5. "Public infrastructure" means water facilities, wastewater  
7 facilities and roads that are necessary to support the activities of the  
8 manufacturing facility.

9 Sec. 13. Title 42, chapter 5, article 1, Arizona Revised Statutes, is  
10 amended by adding section 42-5039, to read:

11 42-5039. Sourcing of certain transactions involving tangible  
12 personal property; definitions

13 A. EXCEPT AS PROVIDED IN SECTION 42-5075, RETAIL SALES OF TANGIBLE  
14 PERSONAL PROPERTY SHALL BE SOURCED AS FOLLOWS:

15 1. TO THE SELLER'S BUSINESS LOCATION IF THE SELLER RECEIVES THE ORDER  
16 AT A BUSINESS LOCATION IN THIS STATE.

17 2. TO THE PURCHASER'S LOCATION IN THIS STATE IF THE SELLER RECEIVES  
18 THE ORDER AT A BUSINESS LOCATION OUTSIDE THIS STATE.

19 B. FOR THE PURPOSES OF MUNICIPAL EXCISE TAXES, THE JURISDICTION WITH  
20 THE RIGHT TO TAX A SALE OF TANGIBLE PERSONAL PROPERTY IS THE CITY OR TOWN  
21 DESCRIBED AS FOLLOWS:

22 1. WHERE THE ORDER IS RECEIVED. AN ORDER IS RECEIVED WHEN ALL OF THE  
23 INFORMATION NECESSARY TO ACCEPT THE ORDER HAS BEEN RECEIVED BY OR ON BEHALF  
24 OF THE SELLER, REGARDLESS OF WHERE THE ORDER IS ACCEPTED OR APPROVED. THE  
25 PLACE OF BUSINESS OF THE PURCHASER DOES NOT DETERMINE WHERE THE ORDER IS  
26 RECEIVED.

27 2. IF PARAGRAPH 1 OF THIS SUBSECTION DOES NOT APPLY TO ANY CITY OR  
28 TOWN, WHERE THE STOCK IS LOCATED FROM WHICH THE TANGIBLE PERSONAL PROPERTY IS  
29 TAKEN.

30 3. IF PARAGRAPHS 1 AND 2 OF THIS SUBSECTION DO NOT APPLY TO ANY CITY  
31 OR TOWN, WHERE THE TRANSFER OF TITLE OR POSSESSION OF THE TANGIBLE PERSONAL  
32 PROPERTY OCCURRED.

33 C. THE GROSS RECEIPTS FROM LEASING OR RENTING TANGIBLE PERSONAL  
34 PROPERTY SHALL BE SOURCED AS FOLLOWS:

35 1. TO THE LESSOR'S BUSINESS LOCATION IF THE LESSOR HAS A BUSINESS  
36 LOCATION IN THIS STATE.

37 2. TO THE LESSEE'S ADDRESS IF THE LESSOR DOES NOT HAVE A BUSINESS  
38 LOCATION IN THIS STATE. THE GROSS RECEIPTS ARE TAXABLE WHEN THE PROPERTY IS  
39 SHIPPED, DELIVERED OR OTHERWISE BROUGHT INTO THIS STATE FOR USE IN THIS  
40 STATE.

41 D. FOR THE PURPOSES OF THIS SECTION:

42 1. "LESSEE'S ADDRESS" MEANS THE RESIDENTIAL ADDRESS OF AN INDIVIDUAL  
43 LESSEE AND THE PRIMARY BUSINESS ADDRESS OF ANY OTHER LESSEE.

44 2. "LESSOR'S BUSINESS LOCATION" MEANS THE BUSINESS ADDRESS THAT  
45 APPEARS ON THE LESSOR'S TRANSACTION PRIVILEGE TAX LICENSE.

1           3. "SELLER'S BUSINESS LOCATION" MEANS THE LOCATION WHERE ANY OF THE  
2 FOLLOWING OCCURS:

- 3           (a) THE ORDER IS RECEIVED.  
4           (b) THE STOCK IS LOCATED FROM WHICH THE TANGIBLE PERSONAL PROPERTY IS  
5 TAKEN.  
6           (c) THE TRANSFER OF TITLE OR POSSESSION OCCURS.

7           Sec. 14. Section 42-5061, Arizona Revised Statutes, is amended to  
8 read:

9           42-5061. Retail classification; definitions

10          A. The retail classification is comprised of the business of selling  
11 tangible personal property at retail. The tax base for the retail  
12 classification is the gross proceeds of sales or gross income derived from  
13 the business. The tax imposed on the retail classification does not apply to  
14 the gross proceeds of sales or gross income from:

15          1. Professional or personal service occupations or businesses that  
16 involve sales or transfers of tangible personal property only as  
17 inconsequential elements.

18          2. Services rendered in addition to selling tangible personal property  
19 at retail.

20          3. Sales of warranty or service contracts. The storage, use or  
21 consumption of tangible personal property provided under the conditions of  
22 such contracts is subject to tax under section 42-5156.

23          4. Sales of tangible personal property by any nonprofit organization  
24 organized and operated exclusively for charitable purposes and recognized by  
25 the United States internal revenue service under section 501(c)(3) of the  
26 internal revenue code.

27          5. Sales to persons engaged in business classified under the  
28 restaurant classification of articles used by human beings for food, drink or  
29 condiment, whether simple, mixed or compounded.

30          6. Business activity that is properly included in any other business  
31 classification that is taxable under this article.

32          7. The sale of stocks and bonds.

33          8. Drugs and medical oxygen, including delivery hose, mask or tent,  
34 regulator and tank, on the prescription of a member of the medical, dental or  
35 veterinarian profession who is licensed by law to administer such substances.

36          9. Prosthetic appliances as defined in section 23-501 prescribed or  
37 recommended by a health professional who is licensed pursuant to title 32,  
38 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

39          10. Insulin, insulin syringes and glucose test strips.

40          11. Prescription eyeglasses or contact lenses.

41          12. Hearing aids as defined in section 36-1901.

42          13. Durable medical equipment ~~which~~ THAT has a centers for medicare and  
43 medicaid services common procedure code, is designated reimbursable by  
44 medicare, is prescribed by a person who is licensed under title 32, chapter  
45 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and

1 customarily used to serve a medical purpose, is generally not useful to a  
 2 person in the absence of illness or injury and is appropriate for use in the  
 3 home.

4 ~~14. Sales to nonresidents of this state for use outside this state if~~  
 5 ~~the vendor ships or delivers the tangible personal property out of this~~  
 6 ~~state.~~

7 ~~15.~~ 14. Food, as provided in and subject to the conditions of article  
 8 3 of this chapter and section 42-5074.

9 ~~16.~~ 15. Items purchased with United States department of agriculture  
 10 food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91  
 11 Stat. 958) or food instruments issued under section 17 of the child nutrition  
 12 act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States  
 13 Code section 1786).

14 ~~17.~~ 16. Textbooks by any bookstore that are required by any state  
 15 university or community college.

16 ~~18.~~ 17. Food and drink to a person ~~who~~ THAT is engaged in A business  
 17 that is classified under the restaurant classification and that provides such  
 18 food and drink without monetary charge to its employees for their own  
 19 consumption on the premises during the employees' hours of employment.

20 ~~19.~~ 18. Articles of food, drink or condiment and accessory tangible  
 21 personal property to a school district or charter school if such articles and  
 22 accessory tangible personal property are to be prepared and served to persons  
 23 for consumption on the premises of a public school within the district or on  
 24 the premises of the charter school during school hours.

25 ~~20.~~ 19. Lottery tickets or shares pursuant to title 5, chapter 5.1,  
 26 article 1.

27 ~~21.~~ 20. The sale of precious metal bullion and monetized bullion to  
 28 the ultimate consumer, but the sale of coins or other forms of money for  
 29 manufacture into jewelry or works of art is subject to the tax. For the  
 30 purposes of this paragraph:

31 (a) "Monetized bullion" means coins and other forms of money that are  
 32 manufactured from gold, silver or other metals and that have been or are used  
 33 as a medium of exchange in this or another state, the United States or a  
 34 foreign nation.

35 (b) "Precious metal bullion" means precious metal, including gold,  
 36 silver, platinum, rhodium and palladium, that has been smelted or refined so  
 37 that its value depends on its contents and not on its form.

38 ~~22.~~ 21. Motor vehicle fuel and use fuel that are subject to a tax  
 39 imposed under title 28, chapter 16, article 1, sales of use fuel to a holder  
 40 of a valid single trip use fuel tax permit issued under section 28-5739,  
 41 sales of aviation fuel that are subject to the tax imposed under section  
 42 28-8344 and sales of jet fuel that are subject to the tax imposed under  
 43 article 8 of this chapter.

44 ~~23.~~ 22. Tangible personal property sold to a person engaged in the  
 45 business of leasing or renting such property under the personal property

1 rental classification if such property is to be leased or rented by such  
2 person.

3 ~~24.~~ 23. Tangible personal property sold in interstate or foreign  
4 commerce if prohibited from being so taxed by the Constitution of the United  
5 States or the constitution of this state.

6 ~~25.~~ 24. Tangible personal property sold to:

7 (a) A qualifying hospital as defined in section 42-5001.

8 (b) A qualifying health care organization as defined in section  
9 42-5001 if the tangible personal property is used by the organization solely  
10 to provide health and medical related educational and charitable services.

11 (c) A qualifying health care organization as defined in section  
12 42-5001 if the organization is dedicated to providing educational,  
13 therapeutic, rehabilitative and family medical education training for blind,  
14 visually impaired and multihandicapped children from the time of birth to age  
15 twenty-one.

16 (d) A qualifying community health center as defined in section  
17 42-5001.

18 (e) A nonprofit charitable organization that has qualified under  
19 section 501(c)(3) of the internal revenue code and that regularly serves  
20 meals to the needy and indigent on a continuing basis at no cost.

21 (f) For taxable periods beginning from and after June 30, 2001, a  
22 nonprofit charitable organization that has qualified under section 501(c)(3)  
23 of the internal revenue code and that provides residential apartment housing  
24 for low income persons over sixty-two years of age in a facility that  
25 qualifies for a federal housing subsidy, if the tangible personal property is  
26 used by the organization solely to provide residential apartment housing for  
27 low income persons over sixty-two years of age in a facility that qualifies  
28 for a federal housing subsidy.

29 ~~26.~~ 25. Magazines or other periodicals or other publications by this  
30 state to encourage tourist travel.

31 ~~27.~~ 26. Tangible personal property sold to a person that is subject to  
32 tax under this article by reason of being engaged in business classified  
33 under the ~~prime contracting~~ MANUFACTURED BUILDING DEALER classification under  
34 section 42-5075, ~~or to a subcontractor working under the control of a prime~~  
35 ~~contractor that is subject to tax under article 1 of this chapter,~~ if the  
36 property so sold is ~~any of the following:~~

37 ~~(a) TO BE~~ incorporated or fabricated by the person into A MANUFACTURED  
38 BUILDING. ~~any real property, structure, project, development or improvement~~  
39 ~~as part of the business.~~

40 ~~(b) Used in environmental response or remediation activities under~~  
41 ~~section 42-5075, subsection B, paragraph 6.~~

42 ~~28.~~ 27. The sale of a motor vehicle to:

43 (a) A nonresident of this state if the purchaser's state of residence  
44 does not allow a corresponding use tax exemption to the tax imposed by  
45 article 1 of this chapter and if the nonresident has secured a special ninety



1 day nonresident registration permit for the vehicle as prescribed by sections  
2 28-2154 and 28-2154.01.

3 (b) An enrolled member of an Indian tribe who resides on the Indian  
4 reservation established for that tribe.

5 ~~29-~~ 28. Tangible personal property purchased in this state by a  
6 nonprofit charitable organization that has qualified under section 501(c)(3)  
7 of the United States internal revenue code and that engages in and uses such  
8 property exclusively in programs for mentally or physically handicapped  
9 persons if the programs are exclusively for training, job placement,  
10 rehabilitation or testing.

11 ~~30-~~ 29. Sales of tangible personal property by a nonprofit  
12 organization that is exempt from taxation under section 501(c)(3), 501(c)(4)  
13 or 501(c)(6) of the internal revenue code if the organization is associated  
14 with a major league baseball team or a national touring professional golfing  
15 association and no part of the organization's net earnings inures to the  
16 benefit of any private shareholder or individual.

17 ~~31-~~ 30. Sales of commodities, as defined by title 7 United States Code  
18 section 2, that are consigned for resale in a warehouse in this state in or  
19 from which the commodity is deliverable on a contract for future delivery  
20 subject to the rules of a commodity market regulated by the United States  
21 commodity futures trading commission.

22 ~~32-~~ 31. Sales of tangible personal property by a nonprofit  
23 organization that is exempt from taxation under section 501(c)(3), 501(c)(4),  
24 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the  
25 organization sponsors or operates a rodeo featuring primarily farm and ranch  
26 animals and no part of the organization's net earnings inures to the benefit  
27 of any private shareholder or individual.

28 ~~33-~~ 32. Sales of seeds, seedlings, roots, bulbs, cuttings and other  
29 propagative material to persons who use those items to commercially produce  
30 agricultural, horticultural, viticultural or floricultural crops in this  
31 state.

32 ~~34-~~ 33. Machinery, equipment, technology or related supplies that are  
33 only useful to assist a person who is physically disabled as defined in  
34 section 46-191, has a developmental disability as defined in section 36-551  
35 or has a head injury as defined in section 41-3201 to be more independent and  
36 functional.

37 ~~35. Sales of tangible personal property that is shipped or delivered~~  
38 ~~directly to a destination outside the United States for use in that foreign~~  
39 ~~country.~~

40 ~~36-~~ 34. Sales of natural gas or liquefied petroleum gas used to propel  
41 a motor vehicle.

42 ~~37-~~ 35. Paper machine clothing, such as forming fabrics and dryer  
43 felts, sold to a paper manufacturer and directly used or consumed in paper  
44 manufacturing.

~~38.~~ 36. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

~~39.~~ 37. Sales of liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any deduction for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

~~40.~~ 38. Through December 31, 1994, personal property liquidation transactions, conducted by a personal property liquidator. From and after December 31, 1994, personal property liquidation transactions shall be taxable under this section provided that nothing in this subsection shall be construed to authorize the taxation of casual activities or transactions under this chapter. For the purposes of this paragraph:

(a) "Personal property liquidation transaction" means a sale of personal property made by a personal property liquidator acting solely on behalf of the owner of the personal property sold at the dwelling of the owner or on the death of any owner, on behalf of the surviving spouse, if any, any devisee or heir or the personal representative of the estate of the deceased, if one has been appointed.

(b) "Personal property liquidator" means a person who is retained to conduct a sale in a personal property liquidation transaction.

~~41.~~ 39. Sales of food, drink and condiment for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

~~42.~~ 40. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16,

1 article 4 and who is engaged in the business of leasing or renting such  
2 property.

3 ~~43.~~ 41. Livestock and poultry feed, salts, vitamins and other  
4 additives for livestock or poultry consumption that are sold to persons who  
5 are engaged in producing livestock, poultry, or livestock or poultry products  
6 or who are engaged in feeding livestock or poultry commercially. For the  
7 purposes of this paragraph, "poultry" includes ratites.

8 ~~44.~~ 42. Sales of implants used as growth promotants and injectable  
9 medicines, not already exempt under paragraph 8 of this subsection, for  
10 livestock or poultry owned by or in possession of persons who are engaged in  
11 producing livestock, poultry, or livestock or poultry products or who are  
12 engaged in feeding livestock or poultry commercially. For the purposes of  
13 this paragraph, "poultry" includes ratites.

14 ~~45.~~ 43. Sales of motor vehicles at auction to nonresidents of this  
15 state for use outside this state if the vehicles are shipped or delivered out  
16 of this state, regardless of where title to the motor vehicles passes or its  
17 free on board point.

18 ~~46.~~ 44. Tangible personal property sold to a person engaged in  
19 business and subject to tax under the transient lodging classification if the  
20 tangible personal property is a personal hygiene item or articles used by  
21 human beings for food, drink or condiment, except alcoholic beverages, that  
22 are furnished without additional charge to and intended to be consumed by the  
23 transient during the transient's occupancy.

24 ~~47.~~ 45. Sales of alternative fuel, as defined in section 1-215, to a  
25 used oil fuel burner who has received a permit to burn used oil or used oil  
26 fuel under section 49-426 or 49-480.

27 ~~48.~~ 46. Sales of materials that are purchased by or for publicly  
28 funded libraries including school district libraries, charter school  
29 libraries, community college libraries, state university libraries or  
30 federal, state, county or municipal libraries for use by the public as  
31 follows:

32 (a) Printed or photographic materials, beginning August 7, 1985.

33 (b) Electronic or digital media materials, beginning July 17, 1994.

34 ~~49.~~ 47. Tangible personal property sold to a commercial airline and  
35 consisting of food, beverages and condiments and accessories used for serving  
36 the food and beverages, if those items are to be provided without additional  
37 charge to passengers for consumption in flight. For the purposes of this  
38 paragraph, "commercial airline" means a person holding a federal certificate  
39 of public convenience and necessity or foreign air carrier permit for air  
40 transportation to transport persons, property or United States mail in  
41 intrastate, interstate or foreign commerce.

42 ~~50.~~ 48. Sales of alternative fuel vehicles if the vehicle was  
43 manufactured as a diesel fuel vehicle and converted to operate on alternative  
44 fuel and equipment that is installed in a conventional diesel fuel motor

1 vehicle to convert the vehicle to operate on an alternative fuel, as defined  
2 in section 1-215.

3 ~~51.~~ 49. Sales of any spirituous, vinous or malt liquor by a person  
4 that is licensed in this state as a wholesaler by the department of liquor  
5 licenses and control pursuant to title 4, chapter 2, article 1.

6 ~~52. Sales of tangible personal property to be incorporated or installed~~  
7 ~~as part of environmental response or remediation activities under section~~  
8 ~~42-5075, subsection B, paragraph 6.~~

9 ~~53.~~ 50. Sales of tangible personal property by a nonprofit  
10 organization that is exempt from taxation under section 501(c)(6) of the  
11 internal revenue code if the organization produces, organizes or promotes  
12 cultural or civic related festivals or events and no part of the  
13 organization's net earnings inures to the benefit of any private shareholder  
14 or individual.

15 ~~54.~~ 51. Through August 31, 2014, sales of Arizona centennial  
16 medallions by the historical advisory commission.

17 ~~55.~~ 52. Application services that are designed to assess or test  
18 student learning or to promote curriculum design or enhancement purchased by  
19 or for any school district, charter school, community college or state  
20 university. For the purposes of this paragraph:

21 (a) "Application services" means software applications provided  
22 remotely using hypertext transfer protocol or another network protocol.

23 (b) "Curriculum design or enhancement" means planning, implementing or  
24 reporting on courses of study, lessons, assignments or other learning  
25 activities.

26 ~~56.~~ 53. Sales of motor vehicle fuel and use fuel to a qualified  
27 business under section 41-1516 for off-road use in harvesting, processing or  
28 transporting qualifying forest products removed from qualifying projects as  
29 defined in section 41-1516.

30 ~~57.~~ 54. Sales of repair parts installed in equipment used directly by  
31 a qualified business under section 41-1516 in harvesting, processing or  
32 transporting qualifying forest products removed from qualifying projects as  
33 defined in section 41-1516.

34 ~~58.~~ 55. Sales or other transfers of renewable energy credits or any  
35 other unit created to track energy derived from renewable energy resources.  
36 For the purposes of this paragraph, "renewable energy credit" means a unit  
37 created administratively by the corporation commission or governing body of a  
38 public power utility to track kilowatt hours of electricity derived from a  
39 renewable energy resource or the kilowatt hour equivalent of conventional  
40 energy resources displaced by distributed renewable energy resources.

41 B. In addition to the deductions from the tax base prescribed by  
42 subsection A of this section, the gross proceeds of sales or gross income  
43 derived from sales of the following categories of tangible personal property  
44 shall be deducted from the tax base:

1           1. Machinery, or equipment, used directly in manufacturing,  
2 processing, fabricating, job printing, refining or metallurgical operations.  
3 The terms "manufacturing", "processing", "fabricating", "job printing",  
4 "refining" and "metallurgical" as used in this paragraph refer to and include  
5 those operations commonly understood within their ordinary meaning.  
6 "Metallurgical operations" includes leaching, milling, precipitating,  
7 smelting and refining. **MANUFACTURING AND PROCESSING DO NOT INCLUDE ENGAGING**  
8 **IN BUSINESS AS A CONTRACTOR.**

9           2. Mining machinery, or equipment, used directly in the process of  
10 extracting ores or minerals from the earth for commercial purposes, including  
11 equipment required to prepare the materials for extraction and handling,  
12 loading or transporting such extracted material to the surface. "Mining"  
13 includes underground, surface and open pit operations for extracting ores and  
14 minerals.

15           3. Tangible personal property sold to persons engaged in business  
16 classified under the telecommunications classification and consisting of  
17 central office switching equipment, switchboards, private branch exchange  
18 equipment, microwave radio equipment and carrier equipment including optical  
19 fiber, coaxial cable and other transmission media ~~which~~ **THAT** are components  
20 of carrier systems.

21           4. Machinery, equipment or transmission lines used directly in  
22 producing or transmitting electrical power, but not including distribution.  
23 Transformers and control equipment used at transmission substation sites  
24 constitute equipment used in producing or transmitting electrical power.

25           5. Neat animals, horses, asses, sheep, ratites, swine or goats used or  
26 to be used as breeding or production stock, including sales of breedings or  
27 ownership shares in such animals used for breeding or production.

28           6. Pipes or valves four inches in diameter or larger used to transport  
29 oil, natural gas, artificial gas, water or coal slurry, including compressor  
30 units, regulators, machinery and equipment, fittings, seals and any other  
31 part that is used in operating the pipes or valves.

32           7. Aircraft, navigational and communication instruments and other  
33 accessories and related equipment sold to:

34           (a) A person holding a federal certificate of public convenience and  
35 necessity, a supplemental air carrier certificate under federal aviation  
36 regulations (14 Code of Federal Regulations part 121) or a foreign air  
37 carrier permit for air transportation for use as or in conjunction with or  
38 becoming a part of aircraft to be used to transport persons, property or  
39 United States mail in intrastate, interstate or foreign commerce.

40           (b) Any foreign government.

41           (c) Persons who are not residents of this state and who will not use  
42 such property in this state other than in removing such property from this  
43 state. This subdivision also applies to corporations that are not  
44 incorporated in this state, regardless of maintaining a place of business in  
45 this state, if the principal corporate office is located outside this state

1 and the property will not be used in this state other than in removing the  
2 property from this state.

3 8. Machinery, tools, equipment and related supplies used or consumed  
4 directly in repairing, remodeling or maintaining aircraft, aircraft engines  
5 or aircraft component parts by or on behalf of a certificated or licensed  
6 carrier of persons or property.

7 9. Railroad rolling stock, rails, ties and signal control equipment  
8 used directly to transport persons or property.

9 10. Machinery or equipment used directly to drill for oil or gas or  
10 used directly in the process of extracting oil or gas from the earth for  
11 commercial purposes.

12 11. Buses or other urban mass transit vehicles ~~which~~ THAT are used  
13 directly to transport persons or property for hire or pursuant to a  
14 governmentally adopted and controlled urban mass transportation program and  
15 ~~which~~ THAT are sold to bus companies holding a federal certificate of  
16 convenience and necessity or operated by any city, town or other governmental  
17 entity or by any person contracting with such governmental entity as part of  
18 a governmentally adopted and controlled program to provide urban mass  
19 transportation.

20 12. Groundwater measuring devices required under section 45-604.

21 13. New machinery and equipment consisting of tractors, tractor-drawn  
22 implements, self-powered implements, machinery and equipment necessary for  
23 extracting milk, and machinery and equipment necessary for cooling milk and  
24 livestock, and drip irrigation lines not already exempt under paragraph 6 of  
25 this subsection and that are used for commercial production of agricultural,  
26 horticultural, viticultural and floricultural crops and products in this  
27 state. For the purposes of this paragraph:

28 (a) "New machinery and equipment" means machinery and equipment that  
29 have never been sold at retail except pursuant to leases or rentals ~~which~~  
30 THAT do not total two years or more.

31 (b) "Self-powered implements" includes machinery and equipment that  
32 are electric-powered.

33 14. Machinery or equipment used in research and development. For the  
34 purposes of this paragraph, "research and development" means basic and  
35 applied research in the sciences and engineering, and designing, developing  
36 or testing prototypes, processes or new products, including research and  
37 development of computer software that is embedded in or an integral part of  
38 the prototype or new product or that is required for machinery or equipment  
39 otherwise exempt under this section to function effectively. Research and  
40 development do not include manufacturing quality control, routine consumer  
41 product testing, market research, sales promotion, sales service, research in  
42 social sciences or psychology, computer software research that is not  
43 included in the definition of research and development, or other  
44 nontechnological activities or technical services.

1       15. Tangible personal property that is used by either of the following  
2 to receive, store, convert, produce, generate, decode, encode, control or  
3 transmit telecommunications information:

4       (a) Any direct broadcast satellite television or data transmission  
5 service that operates pursuant to 47 Code of Federal Regulations part 25.

6       (b) Any satellite television or data transmission facility, if both of  
7 the following conditions are met:

8       (i) Over two-thirds of the transmissions, measured in megabytes,  
9 transmitted by the facility during the test period were transmitted to or on  
10 behalf of one or more direct broadcast satellite television or data  
11 transmission services that operate pursuant to 47 Code of Federal Regulations  
12 part 25.

13       (ii) Over two-thirds of the transmissions, measured in megabytes,  
14 transmitted by or on behalf of those direct broadcast television or data  
15 transmission services during the test period were transmitted by the facility  
16 to or on behalf of those services.

17 For the purposes of subdivision (b) of this paragraph, "test period" means  
18 the three hundred sixty-five day period beginning on the later of the date on  
19 which the tangible personal property is purchased or the date on which the  
20 direct broadcast satellite television or data transmission service first  
21 transmits information to its customers.

22       16. Clean rooms that are used for manufacturing, processing,  
23 fabrication or research and development, as defined in paragraph 14 of this  
24 subsection, of semiconductor products. For the purposes of this paragraph,  
25 "clean room" means all property that comprises or creates an environment  
26 where humidity, temperature, particulate matter and contamination are  
27 precisely controlled within specified parameters, without regard to whether  
28 the property is actually contained within that environment or whether any of  
29 the property is affixed to or incorporated into real property. Clean room:

30       (a) Includes the integrated systems, fixtures, piping, movable  
31 partitions, lighting and all property that is necessary or adapted to reduce  
32 contamination or to control airflow, temperature, humidity, chemical purity  
33 or other environmental conditions or manufacturing tolerances, as well as the  
34 production machinery and equipment operating in conjunction with the clean  
35 room environment.

36       (b) Does not include the building or other permanent, nonremovable  
37 component of the building that houses the clean room environment.

38       17. Machinery and equipment used directly in the feeding of poultry,  
39 the environmental control of housing for poultry, the movement of eggs within  
40 a production and packaging facility or the sorting or cooling of eggs. This  
41 exemption does not apply to vehicles used for transporting eggs.

42       18. Machinery or equipment, including related structural components,  
43 that is employed in connection with manufacturing, processing, fabricating,  
44 job printing, refining, mining, natural gas pipelines, metallurgical  
45 operations, telecommunications, producing or transmitting electricity or

1 research and development and that is used directly to meet or exceed rules or  
2 regulations adopted by the federal energy regulatory commission, the United  
3 States environmental protection agency, the United States nuclear regulatory  
4 commission, the Arizona department of environmental quality or a political  
5 subdivision of this state to prevent, monitor, control or reduce land, water  
6 or air pollution.

7 19. Machinery and equipment that are sold to a person engaged in the  
8 commercial production of livestock, livestock products or agricultural,  
9 horticultural, viticultural or floricultural crops or products in this state  
10 and that are used directly and primarily to prevent, monitor, control or  
11 reduce air, water or land pollution.

12 20. Machinery or equipment that enables a television station to  
13 originate and broadcast or to receive and broadcast digital television  
14 signals and that was purchased to facilitate compliance with the  
15 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States  
16 Code section 336) and the federal communications commission order issued  
17 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does  
18 not exempt any of the following:

19 (a) Repair or replacement parts purchased for the machinery or  
20 equipment described in this paragraph.

21 (b) Machinery or equipment purchased to replace machinery or equipment  
22 for which an exemption was previously claimed and taken under this paragraph.

23 (c) Any machinery or equipment purchased after the television station  
24 has ceased analog broadcasting, or purchased after November 1, 2009,  
25 whichever occurs first.

26 21. Qualifying equipment that is purchased from and after June 30, 2004  
27 through June 30, 2024 by a qualified business under section 41-1516 for  
28 harvesting or processing qualifying forest products removed from qualifying  
29 projects as defined in section 41-1516. To qualify for this deduction, the  
30 qualified business at the time of purchase must present its certification  
31 approved by the department.

32 C. The deductions provided by subsection B of this section do not  
33 include sales of:

34 1. Expendable materials. For the purposes of this paragraph,  
35 expendable materials do not include any of the categories of tangible  
36 personal property specified in subsection B of this section regardless of the  
37 cost or useful life of that property.

38 2. Janitorial equipment and hand tools.

39 3. Office equipment, furniture and supplies.

40 4. Tangible personal property used in selling or distributing  
41 activities, other than the telecommunications transmissions described in  
42 subsection B, paragraph ~~16~~ 15 of this section.

43 5. Motor vehicles required to be licensed by this state, except buses  
44 or other urban mass transit vehicles specifically exempted pursuant to



1 subsection B, paragraph 11 of this section, without regard to the use of such  
2 motor vehicles.

3 6. Shops, buildings, docks, depots and all other materials of whatever  
4 kind or character not specifically included as exempt.

5 7. Motors and pumps used in drip irrigation systems.

6 D. In addition to the deductions from the tax base prescribed by  
7 subsection A of this section, there shall be deducted from the tax base the  
8 gross proceeds of sales or gross income derived from sales of machinery,  
9 equipment, materials and other tangible personal property used directly and  
10 predominantly to construct a qualified environmental technology  
11 manufacturing, producing or processing facility as described in section  
12 41-1514.02. This subsection applies for ten full consecutive calendar or  
13 fiscal years after the start of initial construction.

14 E. In computing the tax base, gross proceeds of sales or gross income  
15 from retail sales of heavy trucks and trailers does not include any amount  
16 attributable to federal excise taxes imposed by 26 United States Code section  
17 4051.

18 F. In computing the tax base, gross proceeds of sales or gross income  
19 from the sale of use fuel, as defined in section 28-5601, does not include  
20 any amount attributable to federal excise taxes imposed by 26 United States  
21 Code section 4091.

22 G. If a person is engaged in an occupation or business to which  
23 subsection A of this section applies, the person's books shall be kept so as  
24 to show separately the gross proceeds of sales of tangible personal property  
25 and the gross income from sales of services, and if not so kept the tax shall  
26 be imposed on the total of the person's gross proceeds of sales of tangible  
27 personal property and gross income from services.

28 H. If a person is engaged in the business of selling tangible personal  
29 property at both wholesale and retail, the tax under this section applies  
30 only to the gross proceeds of the sales made other than at wholesale if the  
31 person's books are kept so as to show separately the gross proceeds of sales  
32 of each class, and if the books are not so kept, the tax under this section  
33 applies to the gross proceeds of every sale so made.

34 I. A person who engages in manufacturing, baling, crating, boxing,  
35 barreling, canning, bottling, sacking, preserving, processing or otherwise  
36 preparing for sale or commercial use any livestock, agricultural or  
37 horticultural product or any other product, article, substance or commodity  
38 and who sells the product of such business at retail in this state is deemed,  
39 as to such sales, to be engaged in business classified under the retail  
40 classification. This subsection does not apply to businesses classified  
41 under the:

- 42 1. Transporting classification.
- 43 2. Utilities classification.
- 44 3. Telecommunications classification.
- 45 4. Pipeline classification.

- 1           5. Private car line classification.
- 2           6. Publication classification.
- 3           7. Job printing classification.
- 4           8. ~~Prime contracting~~ MANUFACTURED BUILDING DEALER classification.
- 5           ~~9. Owner builder sales classification.~~
- 6           ~~10.~~ 9. Restaurant classification.

7           J. The gross proceeds of sales or gross income derived from the  
8 following shall be deducted from the tax base for the retail classification:

9           1. Sales made directly to the United States government or its  
10 departments or agencies by a manufacturer, modifier, assembler or repairer.

11          2. Sales made directly to a manufacturer, modifier, assembler or  
12 repairer if such sales are of any ingredient or component part of products  
13 sold directly to the United States government or its departments or agencies  
14 by the manufacturer, modifier, assembler or repairer.

15          3. Overhead materials or other tangible personal property that is used  
16 in performing a contract between the United States government and a  
17 manufacturer, modifier, assembler or repairer, including property used in  
18 performing a subcontract with a government contractor who is a manufacturer,  
19 modifier, assembler or repairer, to which title passes to the government  
20 under the terms of the contract or subcontract.

21          4. Sales of overhead materials or other tangible personal property to  
22 a manufacturer, modifier, assembler or repairer if the gross proceeds of  
23 sales or gross income derived from the property by the manufacturer,  
24 modifier, assembler or repairer will be exempt under paragraph 3 of this  
25 subsection.

26          K. There shall be deducted from the tax base fifty per cent of the  
27 gross proceeds or gross income from any sale of tangible personal property  
28 made directly to the United States government or its departments or  
29 agencies, ~~which~~ THAT is not deducted under subsection J of this section.

30          L. The department shall require every person claiming a deduction  
31 provided by subsection J or K of this section to file on forms prescribed by  
32 the department at such times as the department directs a sworn statement  
33 disclosing the name of the purchaser and the exact amount of sales on which  
34 the exclusion or deduction is claimed.

35          M. In computing the tax base, gross proceeds of sales or gross income  
36 does not include:

37          1. A manufacturer's cash rebate on the sales price of a motor vehicle  
38 if the buyer assigns the buyer's right in the rebate to the retailer.

39          2. The waste tire disposal fee imposed pursuant to section 44-1302.

40          N. There shall be deducted from the tax base the amount received from  
41 sales of solar energy devices. The retailer shall register with the  
42 department as a solar energy retailer. By registering, the retailer  
43 acknowledges that it will make its books and records relating to sales of  
44 solar energy devices available to the department for examination.

1           O. In computing the tax base in the case of the sale or transfer of  
2 wireless telecommunications equipment as an inducement to a customer to enter  
3 into or continue a contract for telecommunications services that are taxable  
4 under section 42-5064, gross proceeds of sales or gross income does not  
5 include any sales commissions or other compensation received by the retailer  
6 as a result of the customer entering into or continuing a contract for the  
7 telecommunications services.

8           P. For the purposes of this section, a sale of wireless  
9 telecommunications equipment to a person who holds the equipment for sale or  
10 transfer to a customer as an inducement to enter into or continue a contract  
11 for telecommunications services that are taxable under section 42-5064 is  
12 considered to be a sale for resale in the regular course of business.

13           Q. Retail sales of prepaid calling cards or prepaid authorization  
14 numbers for telecommunications services, including sales of reauthorization  
15 of a prepaid card or authorization number, are subject to tax under this  
16 section.

17           R. For the purposes of this section, the diversion of gas from a  
18 pipeline by a person engaged in the business of:

19           1. Operating a natural or artificial gas pipeline, for the sole  
20 purpose of fueling compressor equipment to pressurize the pipeline, is not a  
21 sale of the gas to the operator of the pipeline.

22           2. Converting natural gas into liquefied natural gas, for the sole  
23 purpose of fueling compressor equipment used in the conversion process, is  
24 not a sale of gas to the operator of the compressor equipment.

25           S. If a seller is entitled to a deduction pursuant to subsection B,  
26 paragraph 15, subdivision (b) of this section, the department may require the  
27 purchaser to establish that the requirements of subsection B, paragraph 15,  
28 subdivision (b) of this section have been satisfied. If the purchaser cannot  
29 establish that the requirements of subsection B, paragraph 15, subdivision  
30 (b) of this section have been satisfied, the purchaser is liable in an amount  
31 equal to any tax, penalty and interest which the seller would have been  
32 required to pay under article 1 of this chapter if the seller had not made a  
33 deduction pursuant to subsection B, paragraph 15, subdivision (b) of this  
34 section. Payment of the amount under this subsection exempts the purchaser  
35 from liability for any tax imposed under article 4 of this chapter and  
36 related to the tangible personal property purchased. The amount shall be  
37 treated as transaction privilege tax to the purchaser and as tax revenues  
38 collected from the seller to designate the distribution base pursuant to  
39 section 42-5029.

40           T. For the purposes of section 42-5032.01, the department shall  
41 separately account for revenues collected under the retail classification  
42 from businesses selling tangible personal property at retail:

43           1. On the premises of a multipurpose facility that is owned, leased or  
44 operated by the tourism and sports authority pursuant to title 5, chapter 8.

2. At professional football contests that are held in a stadium located on the campus of an institution under the jurisdiction of the Arizona board of regents.

U. In computing the tax base for the sale of a motor vehicle to a nonresident of this state, if the purchaser's state of residence allows a corresponding use tax exemption to the tax imposed by article 1 of this chapter and the rate of the tax in the purchaser's state of residence is lower than the rate prescribed in article 1 of this chapter or if the purchaser's state of residence does not impose an excise tax, and the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall be deducted from the tax base a portion of the gross proceeds or gross income from the sale so that the amount of transaction privilege tax that is paid in this state is equal to the excise tax that is imposed by the purchaser's state of residence on the nonexempt sale or use of the motor vehicle.

V. THE SALE OF TANGIBLE PERSONAL PROPERTY TO A CONTRACTOR, REGARDLESS OF WHETHER IT WILL BE INCORPORATED INTO A BUILDING OR STRUCTURE, IS CONSIDERED TO BE A SALE AT RETAIL AND IS SUBJECT TO TAXATION UNDER THIS SECTION UNLESS THE CONTRACTOR PROVIDES TO THE RETAILER A CERTIFICATE THAT IS SIGNED BY THE OWNER OF THE PROPERTY TO BE IMPROVED AND THAT STATES THAT THE PERSONAL PROPERTY PURCHASED BY THE CONTRACTOR WILL BE USED FOR A PURPOSE IDENTIFIED IN SUBSECTION A OR B OF THIS SECTION. IF A PERSON WHO IS IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL ALSO ENGAGES IN BUSINESS AS A CONTRACTOR AND REMOVES TANGIBLE PERSONAL PROPERTY FROM RETAIL STOCK FOR USE IN CONTRACTING ACTIVITIES, THE PURCHASE PRICE OF THAT PERSONAL PROPERTY IS SUBJECT TO USE TAX UNDER SECTION 42-5155.

~~W.~~ W. For the purposes of this section:

1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

3. "Selling at retail" means a sale for any purpose other than for resale in the regular course of business in the form of tangible personal property, but transfer of possession, lease and rental as used in the definition of sale mean only such transactions as are found on investigation to be in lieu of sales as defined without the words lease or rental.

1           ~~W.~~ X. For the purposes of subsection J of this section:

2           1. "Assembler" means a person who unites or combines products, wares  
3 or articles of manufacture so as to produce a change in form or substance  
4 without changing or altering the component parts.

5           2. "Manufacturer" means a person who is principally engaged in the  
6 fabrication, production or manufacture of products, wares or articles for use  
7 from raw or prepared materials, imparting to those materials new forms,  
8 qualities, properties and combinations.

9           3. "Modifier" means a person who reworks, changes or adds to products,  
10 wares or articles of manufacture.

11           4. "Overhead materials" means tangible personal property, the gross  
12 proceeds of sales or gross income derived from that would otherwise be  
13 included in the retail classification, and that are used or consumed in the  
14 performance of a contract, the cost of which is charged to an overhead  
15 expense account and allocated to various contracts based on generally  
16 accepted accounting principles and consistent with government contract  
17 accounting standards.

18           5. "Repairer" means a person who restores or renews products, wares or  
19 articles of manufacture.

20           6. "Subcontract" means an agreement between a contractor and any  
21 person who is not an employee of the contractor for furnishing of supplies or  
22 services that, in whole or in part, are necessary to the performance of one  
23 or more government contracts, or under which any portion of the contractor's  
24 obligation under one or more government contracts is performed, undertaken or  
25 assumed and that includes provisions causing title to overhead materials or  
26 other tangible personal property used in the performance of the subcontract  
27 to pass to the government or that includes provisions incorporating such  
28 title passing clauses in a government contract into the subcontract. **FOR THE  
29 PURPOSES OF THIS PARAGRAPH, "CONTRACTOR" HAS ITS ORDINARY AND COMMON MEANING  
30 AND DOES NOT HAVE THE MEANING PRESCRIBED BY SECTION 42-5001.**

31           Sec. 15. Section 42-5071, Arizona Revised Statutes, is amended to  
32 read:

33           ~~42-5071.~~ Personal property rental classification

34           A. The personal property rental classification is comprised of the  
35 business of leasing or renting tangible personal property for a  
36 consideration. The tax does not apply to:

37           1. Leasing or renting films, tapes or slides used by theaters or  
38 movies, which are engaged in business under the amusement classification, or  
39 used by television stations or radio stations.

40           2. Activities engaged in by the Arizona exposition and state fair  
41 board or county fair commissions in connection with events sponsored by such  
42 entities.

43           3. Leasing or renting tangible personal property by a parent  
44 corporation to a subsidiary corporation or by a subsidiary corporation to  
45 another subsidiary of the same parent corporation if taxes were paid under

1 this chapter on the gross proceeds or gross income accruing from the initial  
 2 sale of the tangible personal property. For the purposes of this paragraph,  
 3 "subsidiary" means a corporation of which at least eighty per cent of the  
 4 voting shares are owned by the parent corporation.

5 4. Operating coin-operated washing, drying and dry cleaning machines  
 6 or coin-operated car washing machines at establishments for the use of such  
 7 machines.

8 5. Leasing or renting tangible personal property for incorporation  
 9 into or comprising any part of a qualified environmental technology facility  
 10 as described in section 41-1514.02. This paragraph shall apply for ten full  
 11 consecutive calendar or fiscal years following the initial lease or rental by  
 12 each qualified environmental technology manufacturer, producer or processor.

13 6. Leasing or renting aircraft, flight simulators or similar training  
 14 equipment to students or staff by nonprofit, accredited educational  
 15 institutions that offer associate or baccalaureate degrees in aviation or  
 16 aerospace related fields.

17 7. Leasing or renting photographs, transparencies or other creative  
 18 works used by this state on internet ~~web-sites~~ WEBSITES, in magazines or in  
 19 other publications that encourage tourism.

20 B. The tax base for the personal property rental classification is the  
 21 gross proceeds of sales or gross income derived from the business, but the  
 22 gross proceeds of sales or gross income derived from the following shall be  
 23 deducted from the tax base:

24 1. Reimbursements by the lessee to the lessor of a motor vehicle for  
 25 payments by the lessor of the applicable fees and taxes imposed by sections  
 26 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,  
 27 article 2 and article IX, section 11, Constitution of Arizona, to the extent  
 28 such amounts are separately identified as such fees and taxes and are billed  
 29 to the lessee.

30 2. Leases or rentals of tangible personal property ~~which~~ THAT, if it  
 31 had been purchased instead of leased or rented by the lessee, would have been  
 32 exempt under:

33 (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, ~~25, 29, 50~~  
 34 ~~24, 28, 48~~ or ~~55~~ 52.

35 (b) Section 42-5061, subsection B, except that a lease or rental of  
 36 new machinery or equipment is not exempt pursuant to:

37 (i) Section 42-5061, subsection B, paragraph 13 if the lease is for  
 38 less than two years.

39 (ii) Section 42-5061, subsection B, paragraph 21.

40 (c) Section 42-5061, subsection J, paragraph 1.

41 (d) Section 42-5061, subsection N.

42 3. Motor vehicle fuel and use fuel that are subject to a tax imposed  
 43 under title 28, chapter 16, article 1, sales of use fuel to a holder of a  
 44 valid single trip use fuel tax permit issued under section 28-5739 and sales  
 45 of aviation fuel that are subject to the tax imposed under section 28-8344.

1           4. Leasing or renting a motor vehicle subject to and upon which the  
2 fee has been paid under title 28, chapter 16, article 4.

3           5. Amounts received by a motor vehicle dealer for the first month of a  
4 lease payment if the lease and the lease payment for the first month of the  
5 lease are transferred to a third-party leasing company.

6           C. Sales of tangible personal property to be leased or rented to a  
7 person engaged in a business classified under the personal property rental  
8 classification are deemed to be resale sales.

9           D. In computing the tax base, the gross proceeds of sales or gross  
10 income from the lease or rental of a motor vehicle does not include any  
11 amount attributable to the car rental surcharge under section 28-5810 or  
12 48-4234.

13           E. Until December 31, 1988, leasing or renting animals for  
14 recreational purposes is exempt from the tax imposed by this section.  
15 Beginning January 1, 1989, the gross proceeds or gross income from leasing or  
16 renting animals for recreational purposes is subject to taxation under this  
17 section. Tax liabilities, penalties and interest paid for taxable periods  
18 before January 1, 1989 shall not be refunded unless the taxpayer requesting  
19 the refund provides proof satisfactory to the department that the monies paid  
20 as taxes will be returned to the customer.

21           Sec. 16. Section 42-5072, Arizona Revised Statutes, is amended to  
22 read:

23           42-5072. Mining classification; definition

24           A. The mining classification is comprised of the business of mining,  
25 quarrying or producing for sale, profit or commercial use any  
26 nonmetalliferous mineral product that has been mined, quarried or otherwise  
27 extracted within the boundaries of this state described in article I, section  
28 1, Constitution of Arizona.

29           B. The tax base for the mining classification is the gross proceeds of  
30 sales or gross income derived from the business. The gross proceeds of sales  
31 or gross income derived from sales described under section 42-5061,  
32 subsection A, paragraph ~~27~~ 26 and subsection J, paragraph 2 shall be deducted  
33 from the tax base.

34           C. The tax base includes the value of the entire product mined,  
35 quarried or produced for sale, profit or commercial use in this state,  
36 regardless of the place of sale of the product or of the fact that deliveries  
37 may be made to points without this state. If, however, the sale price of the  
38 product includes freight, the sale price shall be reduced by the actual  
39 freight paid by any person from the place of production to the place of  
40 delivery.

41           D. In the case of a person engaged in business classified under the  
42 mining classification all or part of whose income is derived from service or  
43 manufacturing charges instead of from sales of the products manufactured or  
44 handled, the tax base includes the gross income of the person derived from  
45 the service or manufacturing charge.

1 E. If a person engaging in business classified under the mining  
 2 classification ships or transports all or part of a product out of this state  
 3 without making sale of the product or ships his product outside of this state  
 4 in an unfinished condition, the value of the product or article in the  
 5 condition or form in which it existed when transported out of this state and  
 6 before it enters interstate commerce is included in the tax base, and the  
 7 department shall prescribe equitable and uniform rules for ascertaining that  
 8 value. In determining the tax base, if the product or any part of the  
 9 product has been processed in this state and the proceeds of such processing  
 10 have been included in the tax base of the processor under this chapter, the  
 11 person may deduct from the value of the product when transported out of this  
 12 state the cost of such processing.

13 F. A person who conducts a business classified under the mining  
 14 classification may be deemed also to be engaged in business classified under  
 15 the retail classification to the extent the person's activities comprise  
 16 business under the retail classification if the tax is paid at the rate  
 17 imposed on the retail classification by section 42-5010. If the transaction  
 18 is not subject to taxation under the retail classification, the transaction  
 19 shall be included in the tax base under this section.

20 G. For the purposes of this section, "nonmetalliferous mineral  
 21 product" means oil, natural gas, limestone, sand, gravel or any other  
 22 nonmetalliferous mineral product, compound or combination of nonmetalliferous  
 23 mineral products.

24 Sec. 17. Section 42-5075, Arizona Revised Statutes, is amended to  
 25 read:

26 42-5075. Manufactured building dealer classification:  
 27 exemptions; definitions

28 A. The ~~prime contracting~~ MANUFACTURED BUILDING DEALER classification  
 29 is comprised of the business of ~~prime contracting and dealership of~~ SELLING  
 30 manufactured buildings. Sales for resale to another dealership of  
 31 manufactured buildings are not subject to tax. Sales for resale do not  
 32 include sales to a lessor of manufactured buildings. The sale of a used  
 33 manufactured building is not taxable under this chapter. The proceeds from  
 34 alteration and repairs to a used manufactured building are taxable under this  
 35 section.

36 B. The tax base for the ~~prime contracting~~ MANUFACTURED BUILDING DEALER  
 37 classification is sixty-five per cent of the gross proceeds of sales or gross  
 38 income derived from the business. The following amounts shall be deducted  
 39 from the gross proceeds of sales or gross income before computing the tax  
 40 base:

41 1. The sales price of land, which shall not exceed the fair market  
 42 value.

43 ~~2. Sales and installation of groundwater measuring devices required~~  
 44 ~~under section 45-604 and groundwater monitoring wells required by law,~~



~~including monitoring wells installed for acquiring information for a permit required by law.~~

~~3.~~ 2. The sales price of furniture, furnishings, fixtures, appliances and attachments that are not incorporated as component parts of or attached to a manufactured building or the setup site. The sale of such items may be subject to the taxes imposed by article 1 of this chapter separately and distinctly from the sale of the manufactured building.

~~4. The gross proceeds of sales or gross income received from a contract entered into for the construction, alteration, repair, addition, subtraction, improvement, movement, wrecking or demolition of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement located in a military reuse zone for providing aviation or aerospace services or for a manufacturer, assembler or fabricator of aviation or aerospace products within an active military reuse zone after the zone is initially established or renewed under section 41-1531. To be eligible to qualify for this deduction, before beginning work under the contract, the prime contractor must have applied for a letter of qualification from the department of revenue.~~

~~5. The gross proceeds of sales or gross income derived from a contract to construct a qualified environmental technology manufacturing, producing or processing facility, as described in section 41-1514.02, and from subsequent construction and installation contracts that begin within ten years after the start of initial construction. To qualify for this deduction, before beginning work under the contract, the prime contractor must obtain a letter of qualification from the department of revenue. This paragraph shall apply for ten full consecutive calendar or fiscal years after the start of initial construction.~~

~~6. The gross proceeds of sales or gross income from a contract to provide for one or more of the following actions, or a contract for site preparation, constructing, furnishing or installing machinery, equipment or other tangible personal property, including structures necessary to protect exempt incorporated materials or installed machinery or equipment, and tangible personal property incorporated into the project, to perform one or more of the following actions in response to a release or suspected release of a hazardous substance, pollutant or contaminant from a facility to the environment, unless the release was authorized by a permit issued by a governmental authority:~~

~~(a) Actions to monitor, assess and evaluate such a release or a suspected release.~~

~~(b) Excavation, removal and transportation of contaminated soil and its treatment or disposal.~~

~~(c) Treatment of contaminated soil by vapor extraction, chemical or physical stabilization, soil washing or biological treatment to reduce the concentration, toxicity or mobility of a contaminant.~~

~~(d) Pumping and treatment or in situ treatment of contaminated groundwater or surface water to reduce the concentration or toxicity of a contaminant.~~

~~(e) The installation of structures, such as cutoff walls or caps, to contain contaminants present in groundwater or soil and prevent them from reaching a location where they could threaten human health or welfare or the environment.~~

~~This paragraph does not include asbestos removal or the construction or use of ancillary structures such as maintenance sheds, offices or storage facilities for unattached equipment, pollution control equipment, facilities or other control items required or to be used by a person to prevent or control contamination before it reaches the environment.~~

~~7. The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of machinery, equipment or other tangible personal property that is deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B, or that is exempt from use tax pursuant to section 42-5159, subsection B, and that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement. If the ownership of the realty is separate from the ownership of the machinery, equipment or tangible personal property, the determination as to permanent attachment shall be made as if the ownership were the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity that consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property that is deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B or that is exempt from use tax pursuant to section 42-5159, subsection B. For the purposes of this paragraph, "permanent attachment" means at least one of the following:~~

~~(a) To be incorporated into real property.~~

~~(b) To become so affixed to real property that it becomes a part of the real property.~~

~~(c) To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.~~

~~8. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from transaction privilege and use tax under:~~

~~(a) Section 42-5061, subsection A, paragraph 25 or 29.~~

~~(b) Section 42-5061, subsection B.~~

~~(c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b), (c), (d), (e), (f), (i), (j) or (l).~~

~~(d) Section 42-5159, subsection B.~~

1       ~~9. The gross proceeds of sales or gross income received from a~~  
2 ~~contract for the construction of an environmentally controlled facility for~~  
3 ~~the raising of poultry for the production of eggs and the sorting, cooling~~  
4 ~~and packaging of eggs.~~

5       ~~10. The gross proceeds of sales or gross income that is derived from a~~  
6 ~~contract entered into with a person who is engaged in the commercial~~  
7 ~~production of livestock, livestock products or agricultural, horticultural,~~  
8 ~~viticultural or floricultural crops or products in this state for the~~  
9 ~~construction, alteration, repair, improvement, movement, wrecking or~~  
10 ~~demolition or addition to or subtraction from any building, highway, road,~~  
11 ~~excavation, manufactured building or other structure, project, development or~~  
12 ~~improvement used directly and primarily to prevent, monitor, control or~~  
13 ~~reduce air, water or land pollution.~~

14       ~~11. The gross proceeds of sales or gross income that is derived from~~  
15 ~~the installation, assembly, repair or maintenance of clean rooms that are~~  
16 ~~deducted from the tax base of the retail classification pursuant to section~~  
17 ~~42-5061, subsection B, paragraph 16.~~

18       ~~12. For taxable periods beginning from and after June 30, 2001, the~~  
19 ~~gross proceeds of sales or gross income derived from a contract entered into~~  
20 ~~for the construction of a residential apartment housing facility that~~  
21 ~~qualifies for a federal housing subsidy for low income persons over sixty-two~~  
22 ~~years of age and that is owned by a nonprofit charitable organization that~~  
23 ~~has qualified under section 501(c)(3) of the internal revenue code.~~

24       ~~13. For taxable periods beginning from and after December 31, 1996 and~~  
25 ~~ending before January 1, 2017, the gross proceeds of sales or gross income~~  
26 ~~derived from a contract to provide and install a solar energy device. The~~  
27 ~~contractor shall register with the department as a solar energy contractor.~~  
28 ~~By registering, the contractor acknowledges that it will make its books and~~  
29 ~~records relating to sales of solar energy devices available to the department~~  
30 ~~for examination.~~

31       ~~14. The gross proceeds of sales or gross income derived from a contract~~  
32 ~~entered into for the construction of a launch site, as defined in 14 Code of~~  
33 ~~Federal Regulations section 401.5.~~

34       ~~15. The gross proceeds of sales or gross income derived from a contract~~  
35 ~~entered into for the construction of a domestic violence shelter that is~~  
36 ~~owned and operated by a nonprofit charitable organization that has qualified~~  
37 ~~under section 501(c)(3) of the internal revenue code.~~

38       ~~16. The gross proceeds of sales or gross income derived from contracts~~  
39 ~~to perform postconstruction treatment of real property for termite and~~  
40 ~~general pest control, including wood destroying organisms.~~

41       ~~17. The gross proceeds of sales or gross income received from contracts~~  
42 ~~entered into before July 1, 2006 for constructing a state university research~~  
43 ~~infrastructure project if the project has been reviewed by the joint~~  
44 ~~committee on capital review before the university enters into the~~

~~construction contract for the project. For the purposes of this paragraph, "research infrastructure" has the same meaning prescribed in section 15-1670.~~

~~18. The gross proceeds of sales or gross income received from a contract for the construction of any building, or other structure, project, development or improvement owned by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516 if actual construction begins before January 1, 2024. To qualify for this deduction, the prime contractor must obtain a letter of qualification from the Arizona commerce authority before beginning work under the contract.~~

~~19. Any amount of the gross proceeds of sales or gross income attributable to development fees that are incurred in relation to a contract for construction, development or improvement of real property and that are paid by a prime contractor or subcontractor. For the purposes of this paragraph:~~

~~(a) The attributable amount shall not exceed the value of the development fees actually imposed.~~

~~(b) The attributable amount is equal to the total amount of development fees paid by the prime contractor or subcontractor, and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.~~

~~(c) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to section 9-463.05, section 11-1102 or title 48 regardless of the jurisdiction to which the fees are paid.~~

~~C. Entitlement to the deduction pursuant to subsection B, paragraph 7 of this section is subject to the following provisions:~~

~~1. A prime contractor may establish entitlement to the deduction by both:~~

~~(a) Marking the invoice for the transaction to indicate that the gross proceeds of sales or gross income derived from the transaction was deducted from the base.~~

~~(b) Obtaining a certificate executed by the purchaser indicating the name and address of the purchaser, the precise nature of the business of the purchaser, the purpose for which the purchase was made, the necessary facts to establish the deductibility of the property under section 42-5061, subsection B, and a certification that the person executing the certificate is authorized to do so on behalf of the purchaser. The certificate may be disregarded if the prime contractor has reason to believe that the information contained in the certificate is not accurate or complete.~~

~~2. A person who does not comply with paragraph 1 of this subsection may establish entitlement to the deduction by presenting facts necessary to support the entitlement, but the burden of proof is on that person.~~

1       ~~3. The department may prescribe a form for the certificate described~~  
2 ~~in paragraph 1, subdivision (b) of this subsection. The department may also~~  
3 ~~adopt rules that describe the transactions with respect to which a person is~~  
4 ~~not entitled to rely solely on the information contained in the certificate~~  
5 ~~provided in paragraph 1, subdivision (b) of this subsection but must instead~~  
6 ~~obtain such additional information as required in order to be entitled to the~~  
7 ~~deduction.~~

8       ~~4. If a prime contractor is entitled to a deduction by complying with~~  
9 ~~paragraph 1 of this subsection, the department may require the purchaser who~~  
10 ~~caused the execution of the certificate to establish the accuracy and~~  
11 ~~completeness of the information required to be contained in the certificate~~  
12 ~~that would entitle the prime contractor to the deduction. If the purchaser~~  
13 ~~cannot establish the accuracy and completeness of the information, the~~  
14 ~~purchaser is liable in an amount equal to any tax, penalty and interest that~~  
15 ~~the prime contractor would have been required to pay under article 1 of this~~  
16 ~~chapter if the prime contractor had not complied with paragraph 1 of this~~  
17 ~~subsection. Payment of the amount under this paragraph exempts the purchaser~~  
18 ~~from liability for any tax imposed under article 4 of this chapter. The~~  
19 ~~amount shall be treated as a transaction privilege tax to the purchaser and~~  
20 ~~as tax revenues collected from the prime contractor in order to designate the~~  
21 ~~distribution base for purposes of section 42-5029.~~

22       ~~D. Subcontractors or others who perform services in respect to any~~  
23 ~~improvement, building, highway, road, railroad, excavation, manufactured~~  
24 ~~building or other structure, project, development or improvement are not~~  
25 ~~subject to tax if they can demonstrate that the job was within the control of~~  
26 ~~a prime contractor or contractors or a dealership of manufactured buildings~~  
27 ~~and that the prime contractor or dealership is liable for the tax on the~~  
28 ~~gross income, gross proceeds of sales or gross receipts attributable to the~~  
29 ~~job and from which the subcontractors or others were paid.~~

30       ~~E. Amounts received by a contractor for a project are excluded from~~  
31 ~~the contractor's gross proceeds of sales or gross income derived from the~~  
32 ~~business if the person who hired the contractor executes and provides a~~  
33 ~~certificate to the contractor stating that the person providing the~~  
34 ~~certificate is a prime contractor and is liable for the tax under article 1~~  
35 ~~of this chapter. The department shall prescribe the form of the certificate.~~  
36 ~~If the contractor has reason to believe that the information contained on the~~  
37 ~~certificate is erroneous or incomplete, the department may disregard the~~  
38 ~~certificate. If the person who provides the certificate is not liable for~~  
39 ~~the tax as a prime contractor, that person is nevertheless deemed to be the~~  
40 ~~prime contractor in lieu of the contractor and is subject to the tax under~~  
41 ~~this section on the gross receipts or gross proceeds received by the~~  
42 ~~contractor.~~

43       ~~F. Every person engaging or continuing in this state in the business~~  
44 ~~of prime contracting or dealership of manufactured buildings shall present to~~  
45 ~~the purchaser of such prime contracting or manufactured building a written~~

1 ~~receipt of the gross income or gross proceeds of sales from such activity and~~  
2 ~~shall separately state the taxes to be paid pursuant to this section.~~

3 ~~G. For the purposes of section 42-5032.01, the department shall~~  
4 ~~separately account for revenues collected under the prime contracting~~  
5 ~~classification from any prime contractor engaged in the preparation or~~  
6 ~~construction of a multipurpose facility, and related infrastructure, that is~~  
7 ~~owned, operated or leased by the tourism and sports authority pursuant to~~  
8 ~~title 5, chapter 8.~~

9 ~~H. For the purposes of section 42-5032.02, from and after September~~  
10 ~~30, 2013, the department shall separately account for revenues reported and~~  
11 ~~collected under the prime contracting classification from any prime~~  
12 ~~contractor engaged in the construction of any buildings and associated~~  
13 ~~improvements that are for the benefit of a manufacturing facility. For the~~  
14 ~~purposes of this subsection, "associated improvements" and "manufacturing~~  
15 ~~facility" have the same meanings prescribed in section 42-5032.02.~~

16 ~~I. The gross proceeds of sales or gross income derived from a contract~~  
17 ~~for lawn maintenance services are not subject to tax under this section if~~  
18 ~~the contract does not include landscaping activities. Lawn maintenance~~  
19 ~~service is a service pursuant to section 42-5061, subsection A, paragraph 1,~~  
20 ~~and includes lawn mowing and edging, weeding, repairing sprinkler heads or~~  
21 ~~drip irrigation heads, seasonal replacement of flowers, refreshing gravel,~~  
22 ~~lawn de-thatching, seeding winter lawns, leaf and debris collection and~~  
23 ~~removal, tree or shrub pruning or clipping, garden and gravel raking and~~  
24 ~~applying pesticides, as defined in section 3-361, and fertilizer materials,~~  
25 ~~as defined in section 3-262.~~

26 ~~J. The gross proceeds of sales or gross income derived from~~  
27 ~~landscaping activities are subject to tax under this section. Landscaping~~  
28 ~~includes installing lawns, grading or leveling ground, installing gravel or~~  
29 ~~boulders, planting trees and other plants, felling trees, removing or~~  
30 ~~mulching tree stumps, removing other imbedded plants, building or modifying~~  
31 ~~irrigation berms, repairing sprinkler or watering systems, installing~~  
32 ~~railroad ties and installing underground sprinkler or watering systems.~~

33 ~~K. The portion of gross proceeds of sales or gross income attributable~~  
34 ~~to the actual direct costs of providing architectural or engineering services~~  
35 ~~that are incorporated in a contract is not subject to tax under this section.~~  
36 ~~For the purposes of this subsection, "direct costs" means the portion of the~~  
37 ~~actual costs that are directly expended in providing architectural or~~  
38 ~~engineering services.~~

39 ~~L. Operating a landfill or a solid waste disposal facility is not~~  
40 ~~subject to taxation under this section, including filling, compacting and~~  
41 ~~creating vehicle access to and from cell sites within the landfill.~~  
42 ~~Constructing roads to a landfill or solid waste disposal facility and~~  
43 ~~constructing cells within a landfill or solid waste disposal facility may be~~  
44 ~~deemed prime contracting under this section.~~

1       ~~M.~~ C. The following apply ~~to~~ IN DETERMINING THE TAXABLE SITUS OF  
2 SALES OF manufactured buildings:

3       1. For sales in this state where the ~~dealership-of~~ manufactured  
4 ~~buildings~~ BUILDING DEALER contracts to deliver the building to a setup site  
5 or to perform the setup in this state, the taxable situs is the setup site.

6       2. For sales in this state where the ~~dealership-of~~ manufactured  
7 ~~buildings~~ BUILDING DEALER does not contract to deliver the building to a  
8 setup site or does not perform the setup, the taxable situs is the location  
9 of the dealership where the building is delivered to the buyer.

10       3. For sales in this state where the ~~dealership-of~~ manufactured  
11 ~~buildings~~ BUILDING DEALER contracts to deliver the building to a setup site  
12 that is outside this state, the situs is outside this state and the  
13 transaction is excluded from tax.

14       ~~N. The gross proceeds of sales or gross income attributable to a  
15 separate, written design phase services contract or professional services  
16 contract, executed before modification begins, is not subject to tax under  
17 this section, regardless of whether the services are provided sequential to  
18 or concurrent with prime contracting activities that are subject to tax under  
19 this section. This subsection does not include the gross proceeds of sales  
20 or gross income attributable to construction phase services. For the  
21 purposes of this subsection:~~

22       ~~1. "Construction phase services" means services for the execution and  
23 completion of any modification, including the following:~~

24       ~~(a) Administration or supervision of any modification performed on the  
25 project, including team management and coordination, scheduling, cost  
26 controls, submittal process management, field management, safety program,  
27 close-out process and warranty period services.~~

28       ~~(b) Administration or supervision of any modification performed  
29 pursuant to a punch list. For the purposes of this subdivision, "punch list"  
30 means minor items of modification work performed after substantial completion  
31 and before final completion of the project.~~

32       ~~(c) Administration or supervision of any modification performed  
33 pursuant to change orders. For the purposes of this subdivision, "change  
34 order" means a written instrument issued after execution of a contract for  
35 modification work, providing for all of the following:~~

36       ~~(i) The scope of a change in the modification work, contract for  
37 modification work or other contract documents.~~

38       ~~(ii) The amount of an adjustment, if any, to the guaranteed maximum  
39 price as set in the contract for modification work. For the purposes of this  
40 item, "guaranteed maximum price" means the amount guaranteed to be the  
41 maximum amount due to a prime contractor for the performance of all  
42 modification work for the project.~~

43       ~~(iii) The extent of an adjustment, if any, to the contract time of  
44 performance set forth in the contract.~~

1       ~~(d) Administration or supervision of any modification performed~~  
2 ~~pursuant to change directives. For the purposes of this subdivision, "change~~  
3 ~~directive" means a written order directing a change in modification work~~  
4 ~~before agreement on an adjustment of the guaranteed maximum price or contract~~  
5 ~~time.~~

6       ~~(e) Inspection to determine the dates of substantial completion or~~  
7 ~~final completion.~~

8       ~~(f) Preparation of any manuals, warranties, as-built drawings, spares~~  
9 ~~or other items the prime contractor must furnish pursuant to the contract for~~  
10 ~~modification work. For the purposes of this subdivision, "as-built drawing"~~  
11 ~~means a drawing that indicates field changes made to adapt to field~~  
12 ~~conditions, field changes resulting from change orders or buried and~~  
13 ~~concealed installation of piping, conduit and utility services.~~

14       ~~(g) Preparation of status reports after modification work has begun~~  
15 ~~detailing the progress of work performed, including preparation of any of the~~  
16 ~~following:~~

17           ~~(i) Master schedule updates.~~

18           ~~(ii) Modification work cash flow projection updates.~~

19           ~~(iii) Site reports made on a periodic basis.~~

20           ~~(iv) Identification of discrepancies, conflicts or ambiguities in~~  
21 ~~modification work documents that require resolution.~~

22           ~~(v) Identification of any health and safety issues that have arisen in~~  
23 ~~connection with the modification work.~~

24       ~~(h) Preparation of daily logs of modification work, including~~  
25 ~~documentation of personnel, weather conditions and on-site occurrences.~~

26       ~~(i) Preparation of any submittals or shop drawings used by the prime~~  
27 ~~contractor to illustrate details of the modification work performed.~~

28       ~~(j) Administration or supervision of any other activities for which a~~  
29 ~~prime contractor receives a certificate for payment or certificate for final~~  
30 ~~payment based on the progress of modification work performed on the project.~~

31       ~~2. "Design phase services" means services for developing and~~  
32 ~~completing a design for a project that are not construction phase services,~~  
33 ~~including the following:~~

34           ~~(a) Evaluating surveys, reports, test results or any other information~~  
35 ~~on-site conditions for the project, including physical characteristics, legal~~  
36 ~~limitations and utility locations for the site.~~

37           ~~(b) Evaluating any criteria or programming objectives for the project~~  
38 ~~to ascertain requirements for the project, such as physical requirements~~  
39 ~~affecting cost or projected utilization of the project.~~

40           ~~(c) Preparing drawings and specifications for architectural program~~  
41 ~~documents, schematic design documents, design development documents,~~  
42 ~~modification work documents or documents that identify the scope of or~~  
43 ~~materials for the project.~~



1       ~~(d) Preparing an initial schedule for the project, excluding the~~  
2 ~~preparation of updates to the master schedule after modification work has~~  
3 ~~begun.~~

4       ~~(e) Preparing preliminary estimates of costs of modification work~~  
5 ~~before completion of the final design of the project, including an estimate~~  
6 ~~or schedule of values for any of the following:~~

7       ~~(i) Labor, materials, machinery and equipment, tools, water, heat,~~  
8 ~~utilities, transportation and other facilities and services used in the~~  
9 ~~execution and completion of modification work, regardless of whether they are~~  
10 ~~temporary or permanent or whether they are incorporated in the~~  
11 ~~modifications.~~

12       ~~(ii) The cost of labor and materials to be furnished by the owner of~~  
13 ~~the real property.~~

14       ~~(iii) The cost of any equipment of the owner of the real property to~~  
15 ~~be assigned by the owner to the prime contractor.~~

16       ~~(iv) The cost of any labor for installation of equipment separately~~  
17 ~~provided by the owner of the real property that has been designed, specified,~~  
18 ~~selected or specifically provided for in any design document for the project.~~

19       ~~(v) Any fee paid by the owner of the real property to the prime~~  
20 ~~contractor pursuant to the contract for modification work.~~

21       ~~(vi) Any bond and insurance premiums.~~

22       ~~(vii) Any applicable taxes.~~

23       ~~(viii) Any contingency fees for the prime contractor that may be used~~  
24 ~~before final completion of the project.~~

25       ~~(f) Reviewing and evaluating cost estimates and project documents to~~  
26 ~~prepare recommendations on site use, site improvements, selection of~~  
27 ~~materials, building systems and equipment, modification feasibility,~~  
28 ~~availability of materials and labor, local modification activity as related~~  
29 ~~to schedules and time requirements for modification work.~~

30       ~~(g) Preparing the plan and procedures for selection of subcontractors,~~  
31 ~~including any prequalification of subcontractor candidates.~~

32       ~~3. "Professional services" means architect services, assayer services,~~  
33 ~~engineer services, geologist services, land surveying services or landscape~~  
34 ~~architect services that are within the scope of those services as provided in~~  
35 ~~title 32, chapter 1 and for which gross proceeds of sales or gross income has~~  
36 ~~not otherwise been deducted under subsection K of this section.~~

37       ~~0. Notwithstanding subsection P, paragraph 8 of this section, a person~~  
38 ~~owning real property who enters into a contract for sale of the real~~  
39 ~~property, who is responsible to the new owner of the property for~~  
40 ~~modifications made to the property in the period subsequent to the transfer~~  
41 ~~of title and who receives a consideration for the modifications is considered~~  
42 ~~a prime contractor solely for purposes of taxing the gross proceeds of sale~~  
43 ~~or gross income received for the modifications made subsequent to the~~  
44 ~~transfer of title. The original owner's gross proceeds of sale or gross~~

~~income received for the modifications shall be determined according to the following methodology:~~

~~1. If any part of the contract for sale of the property specifies amounts to be paid to the original owner for the modifications to be made in the period subsequent to the transfer of title, the amounts are included in the original owner's gross proceeds of sale or gross income under this section. Proceeds from the sale of the property that are received after transfer of title and that are unrelated to the modifications made subsequent to the transfer of title are not considered gross proceeds of sale or gross income from the modifications.~~

~~2. If the original owner enters into an agreement separate from the contract for sale of the real property providing for amounts to be paid to the original owner for the modifications to be made in the period subsequent to the transfer of title to the property, the amounts are included in the original owner's gross proceeds of sale or gross income received for the modifications made subsequent to the transfer of title.~~

~~3. If the original owner is responsible to the new owner for modifications made to the property in the period subsequent to the transfer of title and derives any gross proceeds of sale or gross income from the project subsequent to the transfer of title other than a delayed disbursement from escrow unrelated to the modifications, it is presumed that the amounts are received for the modifications made subsequent to the transfer of title unless the contrary is established by the owner through its books, records and papers kept in the regular course of business.~~

~~4. The tax base of the original owner is computed in the same manner as a prime contractor under this section.~~

~~P.~~ D. For the purposes of this section:

~~1. "Contracting" means engaging in business as a contractor.~~

~~2. "Contractor" is synonymous with the term "builder" and means any person or organization that undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does personally or by or through others, modify any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement, or to do any part of such a project, including the erection of scaffolding or other structure or works in connection with such a project, and includes subcontractors and specialty contractors. For all purposes of taxation or deduction, this definition shall govern without regard to whether or not such contractor is acting in fulfillment of a contract.~~

~~4.~~ 1. "Manufactured building" means a manufactured home, mobile home or factory-built building, as defined in section 41-2142.

~~3.~~ 2. "Dealership of Manufactured buildings BUILDING DEALER" means a dealer who either:

(a) Is licensed pursuant to title 41, chapter 16 and who sells manufactured buildings to the final consumer.

(b) Supervises, performs or coordinates the excavation and completion of site improvements, ~~OR THE~~ setup or moving of a manufactured building, including the contracting, if any, with any subcontractor or specialty contractor for the completion of the contract.

~~5. "Modification" means construction, alteration, repair, addition, subtraction, improvement, movement, wreckage or demolition.~~

~~6. "Modify" means to construct, alter, repair, add to, subtract from, improve, move, wreck or demolish.~~

~~7. "Prime contracting" means engaging in business as a prime contractor.~~

~~8. "Prime contractor" means a contractor who supervises, performs or coordinates the modification of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement including the contracting, if any, with any subcontractors or specialty contractors and who is responsible for the completion of the contract. Except as provided in subsections E and O of this section, a person who owns real property, who engages one or more contractors to modify that real property and who does not itself modify that real property is not a prime contractor within the meaning of this paragraph regardless of the existence of a contract for sale or the subsequent sale of that real property.~~

~~9.~~ 3. "Sale of a used manufactured building" does not include a lease of a used manufactured building.

Sec. 18. Repeal

Section ~~42-5076~~, Arizona Revised Statutes, is repealed from and after December 31, 2014.

Sec. 19. Section 42-5151, Arizona Revised Statutes, is amended to read:

~~42-5151.~~ Definitions

In this article, unless the context otherwise requires:

1. "Ancillary services" means those services so designated in federal energy regulatory commission order 888 adopted in 1996 that include the services necessary to support the transmission of electricity from resources to loads while maintaining reliable operation of the transmission system according to good utility practice.

2. "CONTRACTING" MEANS ENGAGING IN BUSINESS AS A CONTRACTOR.

3. "CONTRACTOR" IS SYNONYMOUS WITH THE TERM "BUILDER" AND MEANS ANY PERSON OR ORGANIZATION THAT UNDERTAKES TO OR OFFERS TO UNDERTAKE TO, OR PURPORTS TO HAVE THE CAPACITY TO UNDERTAKE TO, OR SUBMITS A BID TO, OR DOES PERSONALLY OR BY OR THROUGH OTHERS, MODIFY ANY BUILDING, HIGHWAY, ROAD, RAILROAD, EXCAVATION, MANUFACTURED BUILDING OR OTHER STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT, OR TO DO ANY PART OF SUCH A PROJECT, INCLUDING THE ERECTION OF SCAFFOLDING OR OTHER STRUCTURE OR WORKS IN CONNECTION WITH SUCH A PROJECT, AND INCLUDES SUBCONTRACTORS AND SPECIALTY CONTRACTORS. FOR

1 ALL PURPOSES OF TAXATION OR DEDUCTION, THIS DEFINITION GOVERNS WITHOUT REGARD  
2 TO WHETHER OR NOT THE CONTRACTOR IS ACTING IN FULFILLMENT OF A CONTRACT.

3 ~~2-~~ 4. "Electric distribution service" means distributing electricity  
4 to retail electric customers through the use of electric distribution  
5 facilities.

6 ~~3-~~ 5. "Electric generation service" means providing electricity for  
7 sale to retail electric customers but excluding electric distribution or  
8 transmission services.

9 ~~4-~~ 6. "Electric transmission service" means transmitting electricity  
10 to retail electric customers or to electric distribution facilities so  
11 classified by the federal energy regulatory commission or, to the extent  
12 permitted by law, so classified by the Arizona corporation commission.

13 ~~5-~~ 7. "Electric utility services" means the business of providing  
14 electric ancillary services, electric distribution services, electric  
15 generation services, electric transmission services and other services  
16 related to providing electricity.

17 ~~6-~~ 8. "Electricity" means electric energy, electric capacity or  
18 electric capacity and energy.

19 ~~7-~~ 9. "Electricity supplier" means a person, whether acting in a  
20 principal, agent or other capacity, that offers to sell electricity to a  
21 retail electric customer in this state.

22 ~~8-~~ 10. "Natural gas" means natural or artificial gas, and includes  
23 methane and propane gas, the natural gas commodity, natural gas pipeline  
24 capacity or natural gas commodity and pipeline capacity.

25 ~~9-~~ 11. "Natural gas utility services" means the business of selling  
26 natural gas or providing natural gas transportation services or other  
27 services related to providing natural gas.

28 ~~10-~~ 12. "Notice" means written notice served personally or by  
29 certified mail and addressed to the last known address of the person to whom  
30 such notice is given.

31 ~~11-~~ 13. "Other services" includes metering, meter reading services,  
32 billing and collecting services.

33 ~~12-~~ 14. "Person" means an individual, firm, partnership, joint  
34 venture, association, corporation, estate, trust, receiver or syndicate, this  
35 state or a county, city, municipality, district or other political  
36 subdivision or agency thereof.

37 ~~13-~~ 15. "Purchase" means any transfer, exchange or barter, conditional  
38 or otherwise, in any manner or by any means, of tangible personal property  
39 for a consideration, including transactions by which the possession of  
40 property is transferred but the seller retains the title as security for  
41 payment.

42 ~~14-~~ 16. "Purchase price" or "sales price" means the total amount for  
43 which tangible personal property is sold, including any services that are a  
44 part of the sale, valued in money, whether paid in money or otherwise, and  
45 any amount for which credit is given to the purchaser by the seller without

any deduction on account of the cost of the property sold, materials used, labor or services performed, interest charged, losses or other expenses, but does not include:

(a) Discounts allowed and taken.

(b) Charges for labor or services in installing, remodeling or repairing.

(c) Freight costs billed to and collected from a purchaser by a retailer for tangible personal property which, on the order of the retailer, is shipped directly from a manufacturer or wholesaler to the purchaser.

(d) Amounts attributable to federal excise taxes imposed by 26 United States Code section 4001, 4051 or 4081 on sales of heavy trucks and trailers and automobiles or on sales of use fuel, as defined in section 28-5601.

(e) The value of merchandise that is traded in on the purchase of new or pre-owned merchandise when the trade-in allowance is deducted from the sales price of the new or pre-owned merchandise before the completion of the sale.

~~15-~~ 17. "Retail electric customer" means a person who purchases electricity for that person's own use, including use in that person's trade or business, and not for resale, redistribution or retransmission.

~~16-~~ 18. "Retail natural gas customer" means a person who purchases natural gas for that person's own use, including use in that person's trade or business, and not for resale, redistribution or retransmission.

~~17-~~ 19. "Retailer" includes:

(a) Every person engaged in the business of making sales of tangible personal property for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by that person or others for storage, use or other consumption. If in the opinion of the department it is necessary for the efficient administration of this article to regard any salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, regardless of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the department may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this article.

(b) A person who solicits orders for tangible personal property by mail if the solicitations are substantial and recurring or if the retailer benefits from any banking, financing, debt collection, telecommunication, television shopping system, cable, optic, microwave or other communication system or marketing activities occurring in this state or benefits from the location in this state of authorized installation, servicing or repair facilities.

~~18-~~ 20. "Solar daylighting" means a device that is specifically designed to capture and redirect the visible portion of the solar beam, while

controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

~~19.~~ 21. "Solar energy device" means a system or series of mechanisms designed primarily to provide heating, to provide cooling, to produce electrical power, to produce mechanical power, to provide solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses by either active or passive means, including wind generator systems that produce electricity. Solar energy systems may also have the capability of storing solar energy for future use. Passive systems shall clearly be designed as a solar energy device, such as a trombe wall, and not merely as a part of a normal structure, such as a window.

~~20.~~ 22. "Storage" means keeping or retaining tangible personal property purchased from a retailer for any purpose except sale in the regular course of business or subsequent use solely outside this state.

~~21.~~ 23. "Taxpayer" means any retailer or person storing, using or consuming tangible personal property the storage, use or consumption of which is subject to the tax imposed by this article when such tax was not paid to a retailer.

~~22.~~ 24. "Use or consumption" means the exercise of any right or power over tangible personal property incidental to owning the property except holding for sale or selling the property in the regular course of business.

~~23.~~ 25. "Utility business" means a person that is engaged in the business of providing electric utility services to retail electric customers or natural gas utility services to retail natural gas customers.

Sec. 20. Section 42-5155, Arizona Revised Statutes, is amended to read:

42-5155. Levy of tax; tax rate; purchaser's liability

A. There is levied and imposed an excise tax on the storage, use or consumption in this state of tangible personal property purchased from a retailer or utility business, as a percentage of the sales price. A manufactured building purchased outside this state and set up in this state is subject to tax under this section and in this case the ~~RATE IS A~~ percentage ~~is~~ OF sixty-five per cent of the sales price.

B. The tax imposed by this section applies to any purchaser ~~which~~ THAT purchased tangible personal property for resale but subsequently uses or consumes the property.

C. THE PURCHASE OF TANGIBLE PERSONAL PROPERTY BY A CONTRACTOR, REGARDLESS OF WHETHER IT WILL BE INCORPORATED INTO A BUILDING OR STRUCTURE, IS CONSIDERED TO BE A PURCHASE AT RETAIL AND IS SUBJECT TO TAXATION UNDER THIS SECTION UNLESS THE CONTRACTOR PROVIDES TO THE RETAILER A CERTIFICATE THAT IS SIGNED BY THE OWNER OF THE PROPERTY TO BE IMPROVED AND THAT STATES THAT THE PERSONAL PROPERTY PURCHASED BY THE CONTRACTOR WILL BE USED FOR A PURPOSE IDENTIFIED IN SECTION 42-5159, SUBSECTION A OR B. IF A PERSON WHO IS IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL ALSO ENGAGES

1 IN BUSINESS AS A CONTRACTOR AND REMOVES TANGIBLE PERSONAL PROPERTY FROM  
 2 RETAIL STOCK FOR USE IN CONTRACTING ACTIVITIES, THE PURCHASE PRICE OF THAT  
 3 PERSONAL PROPERTY SHALL BE SUBJECT TO TAX UNDER SUBSECTION B OF THIS SECTION.

4 ~~C.~~ D. The tax rate shall equal the rate of tax prescribed by section  
 5 42-5010, subsection A as applied to retailers and utility businesses  
 6 according to the respective classification under articles 1 and 2 of this  
 7 chapter for the same type of transaction or business activity.

8 ~~D.~~ E. In addition to the rate prescribed by subsection ~~C~~ D of this  
 9 section, if approved by the qualified electors voting at a statewide general  
 10 election, an additional rate increment of six-tenths of one per cent is  
 11 imposed and shall be collected through June 30, 2021. The taxpayer shall pay  
 12 taxes pursuant to this subsection at the same time and in the same manner as  
 13 under subsection ~~C~~ D of this section. The department shall separately  
 14 account for the revenues collected with respect to the rate imposed pursuant  
 15 to this subsection, and the state treasurer shall pay all of those revenues  
 16 in the manner prescribed by section 42-5029, subsection E.

17 ~~E.~~ F. Every person storing, using or consuming in this state tangible  
 18 personal property purchased from a retailer or utility business is liable for  
 19 the tax. The person's liability is not extinguished until the tax has been  
 20 paid to this state.

21 ~~F.~~ G. A receipt from a retailer or utility business that maintains a  
 22 place of business in this state or from a retailer or utility business that  
 23 is authorized by the department to collect the tax, under such rules as it  
 24 may prescribe, and that is for the purposes of this article regarded as a  
 25 retailer or utility business maintaining a place of business in this state,  
 26 given to the purchaser as provided in section 42-5161 is sufficient to  
 27 relieve the purchaser from further liability for the tax to which the receipt  
 28 refers.

29 Sec. 21. Section 42-5159, Arizona Revised Statutes, is amended to  
 30 read:

31 ~~42-5159.~~ Exemptions

32 A. The tax levied by this article does not apply to the storage, use  
 33 or consumption in this state of the following described tangible personal  
 34 property:

35 1. Tangible personal property sold in this state, the gross receipts  
 36 from the sale of which are included in the measure of the tax imposed by  
 37 articles 1 and 2 of this chapter.

38 2. Tangible personal property the sale or use of which has already  
 39 been subjected to an excise tax at a rate equal to or exceeding the tax  
 40 imposed by this article under the laws of another state of the United States.  
 41 If the excise tax imposed by the other state is at a rate less than the tax  
 42 imposed by this article, the tax imposed by this article is reduced by the  
 43 amount of the tax already imposed by the other state.

44 3. Tangible personal property, the storage, use or consumption of  
 45 which the constitution or laws of the United States prohibit this state from

1 taxing or to the extent that the rate or imposition of tax is  
2 unconstitutional under the laws of the United States.

3 4. Tangible personal property ~~which~~ THAT directly enters into and  
4 becomes an ingredient or component part of any manufactured, fabricated or  
5 processed article, substance or commodity for sale in the regular course of  
6 business.

7 5. Motor vehicle fuel and use fuel, the sales, distribution or use of  
8 which in this state is subject to the tax imposed under title 28, chapter 16,  
9 article 1, use fuel ~~which~~ THAT is sold to or used by a person holding a valid  
10 single trip use fuel tax permit issued under section 28-5739, aviation fuel,  
11 the sales, distribution or use of which in this state is subject to the tax  
12 imposed under section 28-8344, and jet fuel, the sales, distribution or use  
13 of which in this state is subject to the tax imposed under article 8 of this  
14 chapter.

15 6. Tangible personal property brought into this state by an individual  
16 who was a nonresident at the time the property was purchased for storage, use  
17 or consumption by the individual if the first actual use or consumption of  
18 the property was outside this state, unless the property is used in  
19 conducting a business in this state.

20 7. Purchases of implants used as growth promotants and injectable  
21 medicines, not already exempt under paragraph 16 of this subsection, for  
22 livestock and poultry owned by, or in possession of, persons who are engaged  
23 in producing livestock, poultry, or livestock or poultry products, or who are  
24 engaged in feeding livestock or poultry commercially. For the purposes of  
25 this paragraph, "poultry" includes ratites.

26 8. Livestock, poultry, supplies, feed, salts, vitamins and other  
27 additives for use or consumption in the businesses of farming, ranching and  
28 feeding livestock or poultry, not including fertilizers, herbicides and  
29 insecticides. For the purposes of this paragraph, "poultry" includes  
30 ratites.

31 9. Seeds, seedlings, roots, bulbs, cuttings and other propagative  
32 material for use in commercially producing agricultural, horticultural,  
33 viticultural or floricultural crops in this state.

34 10. Tangible personal property not exceeding two hundred dollars in any  
35 one month purchased by an individual at retail outside the continental limits  
36 of the United States for the individual's own personal use and enjoyment.

37 11. Advertising supplements ~~which~~ THAT are intended for sale with  
38 newspapers published in this state and ~~which~~ THAT have already been subjected  
39 to an excise tax under the laws of another state in the United States ~~which~~  
40 THAT equals or exceeds the tax imposed by this article.

41 12. Materials that are purchased by or for publicly funded libraries  
42 including school district libraries, charter school libraries, community  
43 college libraries, state university libraries or federal, state, county or  
44 municipal libraries for use by the public as follows:



1 (a) Printed or photographic materials, beginning August 7, 1985.

2 (b) Electronic or digital media materials, beginning July 17, 1994.

3 13. Tangible personal property purchased by:

4 (a) A hospital organized and operated exclusively for charitable  
5 purposes, no part of the net earnings of which inures to the benefit of any  
6 private shareholder or individual.

7 (b) A hospital operated by this state or a political subdivision of  
8 this state.

9 (c) A licensed nursing care institution or a licensed residential care  
10 institution or a residential care facility operated in conjunction with a  
11 licensed nursing care institution or a licensed kidney dialysis center, which  
12 provides medical services, nursing services or health related services and is  
13 not used or held for profit.

14 (d) A qualifying health care organization, as defined in section  
15 42-5001, if the tangible personal property is used by the organization solely  
16 to provide health and medical related educational and charitable services.

17 (e) A qualifying health care organization as defined in section  
18 42-5001 if the organization is dedicated to providing educational,  
19 therapeutic, rehabilitative and family medical education training for blind,  
20 visually impaired and multihandicapped children from the time of birth to age  
21 twenty-one.

22 (f) A nonprofit charitable organization that has qualified under  
23 section 501(c)(3) of the United States internal revenue code and that engages  
24 in and uses such property exclusively in programs for mentally or physically  
25 handicapped persons if the programs are exclusively for training, job  
26 placement, rehabilitation or testing.

27 (g) A person that is subject to tax under article 1 of this chapter by  
28 reason of being engaged in business classified under the ~~prime contracting~~  
29 ~~MANUFACTURED BUILDING DEALER~~ classification under section 42-5075, ~~or a~~  
30 ~~subcontractor working under the control of a prime contractor,~~ if the  
31 tangible personal property is ~~any of the following:~~

32 ~~(i) TO BE~~ incorporated or fabricated ~~by the contractor~~ into a  
33 ~~MANUFACTURED BUILDING. structure, project, development or improvement in~~  
34 ~~fulfillment of a contract.~~

35 ~~(ii) Used in environmental response or remediation activities under~~  
36 ~~section 42-5075, subsection B, paragraph 6.~~

37 (h) A nonprofit charitable organization that has qualified under  
38 section 501(c)(3) of the internal revenue code if the property is purchased  
39 from the parent or an affiliate organization that is located outside this  
40 state.

41 (i) A qualifying community health center as defined in section  
42 42-5001.

43 (j) A nonprofit charitable organization that has qualified under  
44 section 501(c)(3) of the internal revenue code and that regularly serves  
45 meals to the needy and indigent on a continuing basis at no cost.

(k) A person engaged in business under the transient lodging classification if the property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

(l) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

14. Commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

15. Tangible personal property sold by:

(a) Any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

(b) A nonprofit organization that is exempt from taxation under section 501(c)(3) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

(c) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

16. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

17. Prosthetic appliances, as defined in section 23-501, prescribed or recommended by a person who is licensed, registered or otherwise professionally credentialed as a physician, dentist, podiatrist, chiropractor, naturopath, homeopath, nurse or optometrist.

18. Prescription eyeglasses and contact lenses.

19. Insulin, insulin syringes and glucose test strips.

20. Hearing aids as defined in section 36-1901.

21. Durable medical equipment ~~which~~ THAT has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter

1 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily  
2 used to serve a medical purpose, is generally not useful to a person in the  
3 absence of illness or injury and is appropriate for use in the home.

4 22. Food, as provided in and subject to the conditions of article 3 of  
5 this chapter and section 42-5074.

6 23. Items purchased with United States department of agriculture food  
7 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.  
8 958) or food instruments issued under section 17 of the child nutrition act  
9 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code  
10 section 1786).

11 24. Food and drink provided without monetary charge by a taxpayer ~~which~~  
12 ~~THAT~~ is subject to section 42-5074 to its employees for their own consumption  
13 on the premises during the employees' hours of employment.

14 25. Tangible personal property that is used or consumed in a business  
15 subject to section 42-5074 for human food, drink or condiment, whether  
16 simple, mixed or compounded.

17 26. Food, drink or condiment and accessory tangible personal property  
18 that are acquired for use by or provided to a school district or charter  
19 school if they are to be either served or prepared and served to persons for  
20 consumption on the premises of a public school in the school district or on  
21 the premises of the charter school during school hours.

22 27. Lottery tickets or shares purchased pursuant to title 5, chapter  
23 5.1, article 1.

24 28. Textbooks, sold by a bookstore, that are required by any state  
25 university or community college.

26 29. Magazines, other periodicals or other publications produced by this  
27 state to encourage tourist travel.

28 30. Paper machine clothing, such as forming fabrics and dryer felts,  
29 purchased by a paper manufacturer and directly used or consumed in paper  
30 manufacturing.

31 31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity  
32 purchased by a qualified environmental technology manufacturer, producer or  
33 processor as defined in section 41-1514.02 and directly used or consumed in  
34 the generation or provision of on-site power or energy solely for  
35 environmental technology manufacturing, producing or processing or  
36 environmental protection. This paragraph shall apply for twenty full  
37 consecutive calendar or fiscal years from the date the first paper  
38 manufacturing machine is placed in service. In the case of an environmental  
39 technology manufacturer, producer or processor who does not manufacture  
40 paper, the time period shall begin with the date the first manufacturing,  
41 processing or production equipment is placed in service.

42 32. Motor vehicles that are removed from inventory by a motor vehicle  
43 dealer as defined in section 28-4301 and that are provided to:

44 (a) Charitable or educational institutions that are exempt from  
45 taxation under section 501(c)(3) of the internal revenue code.

1 (b) Public educational institutions.

2 (c) State universities or affiliated organizations of a state  
3 university if no part of the organization's net earnings inures to the  
4 benefit of any private shareholder or individual.

5 33. Natural gas or liquefied petroleum gas used to propel a motor  
6 vehicle.

7 34. Machinery, equipment, technology or related supplies that are only  
8 useful to assist a person who is physically disabled as defined in section  
9 46-191, has a developmental disability as defined in section 36-551 or has a  
10 head injury as defined in section 41-3201 to be more independent and  
11 functional.

12 35. Liquid, solid or gaseous chemicals used in manufacturing,  
13 processing, fabricating, mining, refining, metallurgical operations, research  
14 and development and, beginning on January 1, 1999, printing, if using or  
15 consuming the chemicals, alone or as part of an integrated system of  
16 chemicals, involves direct contact with the materials from which the product  
17 is produced for the purpose of causing or permitting a chemical or physical  
18 change to occur in the materials as part of the production process. This  
19 paragraph does not include chemicals that are used or consumed in activities  
20 such as packaging, storage or transportation but does not affect any  
21 exemption for such chemicals that is otherwise provided by this section. For  
22 the purposes of this paragraph, "printing" means a commercial printing  
23 operation and includes job printing, engraving, embossing, copying and  
24 bookbinding.

25 36. Food, drink and condiment purchased for consumption within the  
26 premises of any prison, jail or other institution under the jurisdiction of  
27 the state department of corrections, the department of public safety, the  
28 department of juvenile corrections or a county sheriff.

29 37. A motor vehicle and any repair and replacement parts and tangible  
30 personal property becoming a part of such motor vehicle sold to a motor  
31 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4  
32 and who is engaged in the business of leasing or renting such property.

33 38. Tangible personal property ~~which~~ THAT is or directly enters into  
34 and becomes an ingredient or component part of cards used as prescription  
35 plan identification cards.

36 39. Overhead materials or other tangible personal property that is used  
37 in performing a contract between the United States government and a  
38 manufacturer, modifier, assembler or repairer, including property used in  
39 performing a subcontract with a government contractor who is a manufacturer,  
40 modifier, assembler or repairer, to which title passes to the government  
41 under the terms of the contract or subcontract. For the purposes of this  
42 paragraph:

43 (a) "Overhead materials" means tangible personal property, the gross  
44 proceeds of sales or gross income derived from which would otherwise be  
45 included in the retail classification, ~~and which are~~ THAT IS used or consumed

1 in the performance of a contract, the cost of which is charged to an overhead  
2 expense account and allocated to various contracts based ~~upon~~ ON generally  
3 accepted accounting principles and consistent with government contract  
4 accounting standards.

5 (b) "Subcontract" means an agreement between a contractor and any  
6 person who is not an employee of the contractor for furnishing of supplies or  
7 services that, in whole or in part, are necessary to the performance of one  
8 or more government contracts, or under which any portion of the contractor's  
9 obligation under one or more government contracts is performed, undertaken or  
10 assumed, and that includes provisions causing title to overhead materials or  
11 other tangible personal property used in the performance of the subcontract  
12 to pass to the government or that includes provisions incorporating such  
13 title passing clauses in a government contract into the subcontract. FOR THE  
14 PURPOSES OF THIS SUBDIVISION, "CONTRACTOR" HAS ITS ORDINARY AND COMMON  
15 MEANING AND DOES NOT HAVE THE MEANING PRESCRIBED IN SECTION 42-5151.

16 40. Through December 31, 1994, tangible personal property sold pursuant  
17 to a personal property liquidation transaction, as defined in section  
18 42-5061. From and after December 31, 1994, tangible personal property sold  
19 pursuant to a personal property liquidation transaction, as defined in  
20 section 42-5061, if the gross proceeds of the sales were included in the  
21 measure of the tax imposed by article 1 of this chapter or if the personal  
22 property liquidation was a casual activity or transaction.

23 41. Wireless telecommunications equipment that is held for sale or  
24 transfer to a customer as an inducement to enter into or continue a contract  
25 for telecommunications services that are taxable under section 42-5064.

26 42. Alternative fuel, as defined in section 1-215, purchased by a used  
27 oil fuel burner who has received a permit to burn used oil or used oil fuel  
28 under section 49-426 or 49-480.

29 43. Tangible personal property purchased by a commercial airline and  
30 consisting of food, beverages and condiments and accessories used for serving  
31 the food and beverages, if those items are to be provided without additional  
32 charge to passengers for consumption in flight. For the purposes of this  
33 paragraph, "commercial airline" means a person holding a federal certificate  
34 of public convenience and necessity or foreign air carrier permit for air  
35 transportation to transport persons, property or United States mail in  
36 intrastate, interstate or foreign commerce.

37 44. Alternative fuel vehicles if the vehicle was manufactured as a  
38 diesel fuel vehicle and converted to operate on alternative fuel and  
39 equipment that is installed in a conventional diesel fuel motor vehicle to  
40 convert the vehicle to operate on an alternative fuel, as defined in section  
41 1-215.

42 45. Gas diverted from a pipeline, by a person engaged in the business  
43 of:

(a) Operating a natural or artificial gas pipeline, and used or consumed for the sole purpose of fueling compressor equipment that pressurizes the pipeline.

(b) Converting natural gas into liquefied natural gas, and used or consumed for the sole purpose of fueling compressor equipment used in the conversion process.

46. Tangible personal property that is excluded, exempt or deductible from transaction privilege tax pursuant to section 42-5063.

~~47. Tangible personal property purchased to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.~~

47. Tangible personal property sold by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

48. Prepared food, drink or condiment donated by a restaurant as classified in section 42-5074, subsection A to a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

49. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

50. Motor vehicle fuel and use fuel to a qualified business under section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

51. Repair parts installed in equipment used directly by a qualified business under section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

52. Renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power entity to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

B. In addition to the exemptions allowed by subsection A of this section, the following categories of tangible personal property are also exempt:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining. **MANUFACTURING AND PROCESSING DO NOT INCLUDE ENGAGING IN THE BUSINESS OF CONTRACTING.**

2. Machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064 and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media ~~which~~ **THAT** are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(b) Any foreign government, or sold to persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state.



8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9. Rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles ~~which~~ THAT are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and ~~which~~ THAT are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

12. Groundwater measuring devices required under section 45-604.

13. New machinery and equipment consisting of tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery or equipment ~~which~~ THAT has never been sold at retail except pursuant to leases or rentals ~~which~~ THAT do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:



1 (a) Any direct broadcast satellite television or data transmission  
2 service that operates pursuant to 47 Code of Federal Regulations part 25.

3 (b) Any satellite television or data transmission facility, if both of  
4 the following conditions are met:

5 (i) Over two-thirds of the transmissions, measured in megabytes,  
6 transmitted by the facility during the test period were transmitted to or on  
7 behalf of one or more direct broadcast satellite television or data  
8 transmission services that operate pursuant to 47 Code of Federal Regulations  
9 part 25.

10 (ii) Over two-thirds of the transmissions, measured in megabytes,  
11 transmitted by or on behalf of those direct broadcast television or data  
12 transmission services during the test period were transmitted by the facility  
13 to or on behalf of those services.

14 For the purposes of subdivision (b) of this paragraph, "test period" means  
15 the three hundred sixty-five day period beginning on the later of the date on  
16 which the tangible personal property is purchased or the date on which the  
17 direct broadcast satellite television or data transmission service first  
18 transmits information to its customers.

19 16. Clean rooms that are used for manufacturing, processing,  
20 fabrication or research and development, as defined in paragraph 14 of this  
21 subsection, of semiconductor products. For the purposes of this paragraph,  
22 "clean room" means all property that comprises or creates an environment  
23 where humidity, temperature, particulate matter and contamination are  
24 precisely controlled within specified parameters, without regard to whether  
25 the property is actually contained within that environment or whether any of  
26 the property is affixed to or incorporated into real property. Clean room:

27 (a) Includes the integrated systems, fixtures, piping, movable  
28 partitions, lighting and all property that is necessary or adapted to reduce  
29 contamination or to control airflow, temperature, humidity, chemical purity  
30 or other environmental conditions or manufacturing tolerances, as well as the  
31 production machinery and equipment operating in conjunction with the clean  
32 room environment.

33 (b) Does not include the building or other permanent, nonremovable  
34 component of the building that houses the clean room environment.

35 17. Machinery and equipment that are used directly in the feeding of  
36 poultry, the environmental control of housing for poultry, the movement of  
37 eggs within a production and packaging facility or the sorting or cooling of  
38 eggs. This exemption does not apply to vehicles used for transporting eggs.

39 18. Machinery or equipment, including related structural components,  
40 that is employed in connection with manufacturing, processing, fabricating,  
41 job printing, refining, mining, natural gas pipelines, metallurgical  
42 operations, telecommunications, producing or transmitting electricity or  
43 research and development and that is used directly to meet or exceed rules or  
44 regulations adopted by the federal energy regulatory commission, the United  
45 States environmental protection agency, the United States nuclear regulatory

commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

19. Machinery and equipment that are used in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state and that are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

20. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

21. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this exemption, the qualified business must obtain and present its certification from the Arizona commerce authority at the time of purchase.

C. The exemptions provided by subsection B of this section do not include:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph ~~16~~ 15 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

1           7. Motors and pumps used in drip irrigation systems.

2           D. The following shall be deducted in computing the purchase price of  
3 electricity by a retail electric customer from a utility business:

4           1. Revenues received from sales of ancillary services, electric  
5 distribution services, electric generation services, electric transmission  
6 services and other services related to providing electricity to a retail  
7 electric customer who is located outside this state for use outside this  
8 state if the electricity is delivered to a point of sale outside this state.

9           2. Revenues received from providing electricity, including ancillary  
10 services, electric distribution services, electric generation services,  
11 electric transmission services and other services related to providing  
12 electricity with respect to which the transaction privilege tax imposed under  
13 section 42-5063 has been paid.

14           E. The tax levied by this article does not apply to the purchase of  
15 solar energy devices from a retailer that is registered with the department  
16 as a solar energy retailer or a solar energy contractor.

17           F. The following shall be deducted in computing the purchase price of  
18 electricity by a retail electric customer from a utility business:

19           1. Fees charged by a municipally owned utility to persons constructing  
20 residential, commercial or industrial developments or connecting residential,  
21 commercial or industrial developments to a municipal utility system or  
22 systems if the fees are segregated and used only for capital expansion,  
23 system enlargement or debt service of the utility system or systems.

24           2. Reimbursement or contribution compensation to any person or persons  
25 owning a utility system for property and equipment installed to provide  
26 utility access to, on or across the land of an actual utility consumer if the  
27 property and equipment become the property of the utility. This deduction  
28 shall not exceed the value of such property and equipment.

29           G. For the purposes of subsection B of this section:

30           1. "Aircraft" includes:

31           (a) An airplane flight simulator that is approved by the federal  
32 aviation administration for use as a phase II or higher flight simulator  
33 under appendix H, 14 Code of Federal Regulations part 121.

34           (b) Tangible personal property that is permanently affixed or attached  
35 as a component part of an aircraft that is owned or operated by a  
36 certificated or licensed carrier of persons or property.

37           2. "Other accessories and related equipment" includes aircraft  
38 accessories and equipment such as ground service equipment that physically  
39 contact aircraft at some point during the overall carrier operation.

40           H. For the purposes of subsection D of this section, "ancillary  
41 services", "electric distribution service", "electric generation service",  
42 "electric transmission service" and "other services" have the same meanings  
43 prescribed in section 42-5063.

1       Sec. 22. Section 42-5160, Arizona Revised Statutes, is amended to  
2 read:

3       42-5160. Liability for tax

4       Any person who uses, stores or consumes any tangible personal property  
5 ~~upon~~ ON which a tax is imposed by this article and ~~upon~~ ON which the tax has  
6 not been collected by a registered retailer or utility business shall pay the  
7 tax as provided by this article, but every retailer and utility business  
8 maintaining a place of business in this state and making sales of tangible  
9 personal property for storage, use or other consumption in this state shall  
10 collect the tax from the purchaser or user unless the property is exempt  
11 under this article or the purchaser or user pays the tax directly to the  
12 department as provided by section 42-5167. In the case of a manufactured  
13 building that is purchased from a dealer outside this state and brought into  
14 this state, any person who is hired to set up the manufactured building and  
15 who is licensed pursuant to title 41, chapter 16, article 4 shall collect the  
16 tax from the owner and remit the tax with any tax that is due under the ~~prime~~  
17 ~~contracting~~ MANUFACTURED BUILDING DEALER classification PURSUANT TO SECTION  
18 42-5075.

19       Sec. 23. Section 42-6001, Arizona Revised Statutes, is amended to  
20 read:

21       42-6001. Collection and administration of transaction privilege  
22       tax and affiliated excise taxes; committee

23       A. The department ~~may~~ SHALL collect and administer any transaction  
24 privilege and affiliated excise taxes, including use tax, severance tax, jet  
25 fuel excise and use tax, and rental occupancy tax, imposed by any city or  
26 town, and the department and any city or town ~~may~~ SHALL enter into  
27 intergovernmental contracts or agreements to provide a uniform method of  
28 administration, collection, audit and licensing of transaction privilege and  
29 affiliated excise taxes imposed by the state or cities or towns pursuant to  
30 title 11, chapter 7, article 3.

31       ~~B. The director may enter into agreements with cities and towns of~~  
32 ~~this state that levy transaction privilege and affiliated excise taxes to~~  
33 ~~provide for unified or coordinated licensing, collection and auditing~~  
34 ~~programs for such taxes levied by cities and towns and taxes levied pursuant~~  
35 ~~to chapter 5 of this title. Such cities and towns may enter into agreements~~  
36 ~~with the department to provide for unified or coordinated licensing,~~  
37 ~~collection and auditing programs for such transaction privilege and~~  
38 ~~affiliated excise taxes levied by such cities and towns and for taxes levied~~  
39 ~~pursuant to chapter 5 of this title.~~

40       ~~C. A city or town that does not enter into an agreement with the~~  
41 ~~department for the collection of municipal transaction privilege and~~  
42 ~~affiliated excise taxes shall report to the department on or before September~~  
43 ~~1 of each year the total amount of those taxes collected by the city or town~~  
44 ~~in the preceding fiscal year.~~

1       ~~D.~~ B. The director shall establish with ~~such~~ THE cities and towns a  
 2 uniform licensing, collection and audit committee to direct such unified or  
 3 coordinated functions.

4       ~~E. A taxpayer who is required to pay any municipal transaction~~  
 5 ~~privilege and affiliated excise taxes to a city or town that has not entered~~  
 6 ~~into an intergovernmental contract or agreement with the department of~~  
 7 ~~revenue under subsection B of this section to provide a coordinated method of~~  
 8 ~~collecting municipal transaction privilege and affiliated excise taxes may~~  
 9 ~~instead report and pay the required tax to that city or town through an~~  
 10 ~~online portal. The online portal shall be procured by the department of~~  
 11 ~~administration pursuant to a public-private partnership entered into pursuant~~  
 12 ~~to section 41-2559, shall include access to a single point of filing and~~  
 13 ~~paying the tax and shall provide security measures to protect taxpayer~~  
 14 ~~information. The taxpayer may be charged a fee to use the online portal.~~

15       Sec. 24. Section 42-6002, Arizona Revised Statutes, is amended to  
 16 read:

17       42-6002. Procedures for levy, collection and enforcement  
 18 applicable to cities and towns

19       A. The procedures for levy, collection and enforcement of payment of  
 20 transaction privilege and affiliated excise taxes, including use tax,  
 21 severance tax, jet fuel excise and use tax, and rental occupancy tax, levied  
 22 by a city or town ~~by such city or town~~ shall be in the same manner as  
 23 authorized by chapter 5 of this title ~~unless otherwise provided by the~~  
 24 ~~ordinance of such city or town. The department, when acting on behalf of a~~  
 25 ~~city or town in levying and collecting transaction privilege and affiliated~~  
 26 ~~taxes for such city or town, shall utilize the procedures for levying,~~  
 27 ~~collecting and enforcing the payment of such taxes on behalf of the city or~~  
 28 ~~town.~~

29       B. A city or town shall not:

30       1. Employ auditors ~~on a contingent fee basis or enter into contingent~~  
 31 ~~fee contracts for auditing any transaction privilege or affiliated tax levied~~  
 32 ~~by the city or town.~~

33       2. Enter into contracts with a third party, other than this state ~~or a~~  
 34 ~~political subdivision of this state~~, for the collection, administration or  
 35 processing of transaction privilege or affiliated taxes levied by the city or  
 36 town. ~~This paragraph does not apply to a city or town that does not contract~~  
 37 ~~with the department for the collection, administration or processing of~~  
 38 ~~transaction privilege or affiliated taxes levied by the city or town and that~~  
 39 ~~enters into a contract with a third party solely for the collection of~~  
 40 ~~delinquent city or town transaction privilege or affiliated taxes for which a~~  
 41 ~~liability has been established.~~

1           Sec. 25. Section 42-6004, Arizona Revised Statutes, is amended to  
2 read:

3           42-6004. Exemption from municipal tax

4           A. A city, town or special taxing district shall not levy a  
5 transaction privilege, sales, use or other similar tax on:

6           1. Exhibition events in this state sponsored, conducted or operated by  
7 a nonprofit organization that is exempt from taxation under section  
8 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the  
9 organization is associated with a major league baseball team or a national  
10 touring professional golfing association and no part of the organization's  
11 net earnings inures to the benefit of any private shareholder or individual.

12           2. Interstate telecommunications services, which include that portion  
13 of telecommunications services, such as subscriber line service, allocable by  
14 federal law to interstate telecommunications service.

15           3. Sales of warranty or service contracts.

16           ~~4. Sales of motor vehicles to nonresidents of this state for use~~  
17 ~~outside this state if the vendor ships or delivers the motor vehicle to a~~  
18 ~~destination outside this state.~~

19           ~~5.~~ 4. Interest on finance contracts.

20           ~~6.~~ 5. Dealer documentation fees on the sales of motor vehicles.

21           ~~7.~~ 6. Sales of food or other items purchased with United States  
22 department of agriculture food stamp coupons issued under the food stamp act  
23 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section  
24 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,  
25 section 4302; 42 United States Code section 1786) but may impose such a tax  
26 on other sales of food. If a city, town or special taxing district exempts  
27 sales of food from its tax or imposes a different transaction privilege rate  
28 on the gross proceeds of sales or gross income from sales of food and nonfood  
29 items, it shall use the definition of food prescribed by rule adopted by the  
30 department pursuant to section 42-5106.

31           ~~8.~~ 7. Sales of internet access services to the person's subscribers  
32 and customers. For the purposes of this paragraph:

33           (a) "Internet" means the computer and telecommunications facilities  
34 that comprise the interconnected worldwide network of networks that employ  
35 the transmission control protocol or internet protocol, or any predecessor or  
36 successor protocol, to communicate information of all kinds by wire or radio.

37           (b) "Internet access" means a service that enables users to access  
38 content, information, electronic mail or other services over the internet.  
39 Internet access does not include telecommunication services provided by a  
40 common carrier.

41           ~~9.~~ 8. The gross proceeds of sales or gross income retained by the  
42 Arizona exposition and state fair board from ride ticket sales at the annual  
43 Arizona state fair.

44           ~~10.~~ 9. Through August 31, 2014, sales of Arizona centennial medallions  
45 by the historical advisory commission.

~~11-~~ 10. The gross proceeds of sales or gross income derived from a commercial lease in which a reciprocal insurer or a corporation leases real property to an affiliated corporation. For the purposes of this paragraph:

(a) "Affiliated corporation" means a corporation that meets one of the following conditions:

(i) The corporation owns or controls at least eighty per cent of the lessor.

(ii) The corporation is at least eighty per cent owned or controlled by the lessor.

(iii) The corporation is at least eighty per cent owned or controlled by a corporation that also owns or controls at least eighty per cent of the lessor.

(iv) The corporation is at least eighty per cent owned or controlled by a corporation that is at least eighty per cent owned or controlled by a reciprocal insurer.

(b) For the purposes of subdivision (a) of this paragraph, ownership and control are determined by reference to the voting shares of a corporation.

(c) "Reciprocal insurer" has the same meaning prescribed in section 20-762.

~~12-~~ 11. The gross proceeds of sales or gross income derived from a commercial lease in which a corporation leases real property to a corporation of which at least eighty per cent of the voting shares of each corporation are owned by the same shareholders.

B. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, use, franchise or other similar tax or fee, however denominated, on natural gas or liquefied petroleum gas used to propel a motor vehicle.

C. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, gross receipts, use, franchise or other similar tax or fee, however denominated, on gross proceeds of sales or gross income derived from any of the following:

1. A motor carrier's use on the public highways in this state if the motor carrier is subject to a fee prescribed in title 28, chapter 16, article 4.

2. Leasing, renting or licensing a motor vehicle subject to and ~~upon~~ **ON** which the fee has been paid under title 28, chapter 16, article 4.

3. The sale of a motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing, renting or licensing such property.

4. Incarcerating or detaining in a privately operated prison, jail or detention facility prisoners who are under the jurisdiction of the United

1 States, this state or any other state or a political subdivision of this  
2 state or of any other state.

3 5. Transporting for hire persons, freight or property by light motor  
4 vehicles subject to a fee under title 28, chapter 15, article 4.

5 ~~6. Any amount attributable to development fees that are incurred in~~  
6 ~~relation to the construction, development or improvement of real property and~~  
7 ~~paid by the taxpayer as defined in the model city tax code or by a contractor~~  
8 ~~providing services to the taxpayer. For the purposes of this paragraph:~~

9 ~~(a) The attributable amount shall not exceed the value of the~~  
10 ~~development fees actually imposed.~~

11 ~~(b) The attributable amount is equal to the total amount of~~  
12 ~~development fees paid by the taxpayer or by a contractor providing services~~  
13 ~~to the taxpayer and the total development fees credited in exchange for the~~  
14 ~~construction of, contribution to or dedication of real property for providing~~  
15 ~~public infrastructure, public safety or other public services necessary to~~  
16 ~~the development. The real property must be the subject of the development~~  
17 ~~fees.~~

18 ~~(c) "Development fees" means fees imposed to offset capital costs of~~  
19 ~~providing public infrastructure, public safety or other public services to a~~  
20 ~~development and authorized pursuant to section 9-463.05, section 11-1102 or~~  
21 ~~title 48 regardless of the jurisdiction to which the fees are paid.~~

22 6. CONSTRUCTION CONTRACTING, OWNER BUILDER SALES OR SPECULATIVE  
23 BUILDING. THE SALE OF TANGIBLE PERSONAL PROPERTY TO A CONTRACTOR, OWNER  
24 BUILDER OR SPECULATIVE BUILDER, AS DEFINED IN THE MODEL CITY TAX CODE,  
25 REGARDLESS OF WHETHER THE PROPERTY WILL BE INCORPORATED INTO A BUILDING OR  
26 STRUCTURE, IS CONSIDERED TO BE A SALE AT RETAIL AND IS SUBJECT TO TAXATION  
27 UNDER THE RETAIL SALES PROVISION OF THE MODEL CITY TAX CODE UNLESS THE  
28 CONTRACTOR PROVIDES TO THE RETAILER A CERTIFICATE THAT IS SIGNED BY THE OWNER  
29 OF THE PROPERTY TO BE IMPROVED AND THAT STATES THAT THE PERSONAL PROPERTY  
30 PURCHASED BY THE CONTRACTOR WILL BE USED FOR A PURPOSE EXEMPT FROM THE RETAIL  
31 CLASSIFICATION AS PRESCRIBED IN THE MODEL CITY TAX CODE. IF A PERSON WHO IS  
32 IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL ALSO ENGAGES  
33 IN BUSINESS AS A CONTRACTOR, OWNER BUILDING OR SPECULATIVE BUILDER AND  
34 REMOVES TANGIBLE PERSONAL PROPERTY FROM RETAIL STOCK FOR USE IN CONTRACTING,  
35 OWNER BUILDER OR SPECULATIVE BUILDING ACTIVITIES, THE PURCHASE PRICE OF THAT  
36 PERSONAL PROPERTY IS SUBJECT TO USE TAX.

37 D. A city, town or other taxing jurisdiction shall not levy a  
38 transaction privilege, sales, use, franchise or other similar tax or fee,  
39 however denominated, in excess of one-tenth of one per cent of the value of  
40 the entire product mined, smelted, extracted, refined, produced or prepared  
41 for sale, profit or commercial use, on persons engaged in the business of  
42 mineral processing, except to the extent that the tax is computed on the  
43 gross proceeds or gross income from sales at retail.



1 E. In computing the tax base, any city, town or other taxing  
2 jurisdiction shall not include in the gross proceeds of sales or gross  
3 income:

4 1. A manufacturer's cash rebate on the sales price of a motor vehicle  
5 if the buyer assigns the buyer's right in the rebate to the retailer.

6 2. The waste tire disposal fee imposed pursuant to section 44-1302.

7 F. A city or town shall not levy a use tax on the storage, use or  
8 consumption of tangible personal property in the city or town by a school  
9 district or charter school.

10 Sec. 26. Section 42-6102, Arizona Revised Statutes, is amended to  
11 read:

12 ~~42-6102.~~ Administration

13 ~~A.~~ Unless the context otherwise requires, chapter 5, article 1 of this  
14 title governs the administration of the taxes imposed by this article, except  
15 that:

16 1. A separate license is not required for the taxes imposed by this  
17 article, and the taxes due under this article shall be included, reported and  
18 paid with the transaction privilege tax.

19 2. A separate bond is not required of employees of the department in  
20 administering this article.

21 3. The taxes imposed by this article may be included without  
22 segregation in any notice and lien filed for unpaid transaction privilege  
23 taxes.

24 ~~B. The taxes imposed pursuant to this article do not apply to the~~  
25 ~~gross proceeds of sales or gross income derived pursuant to contracts entered~~  
26 ~~into before the date of the election to authorize the tax by prime~~  
27 ~~contractors and owner builders who are classified under sections 42-5075 and~~  
28 ~~42-5076 unless the contract contains a provision which entitles the~~  
29 ~~contractor to recover the amount of the tax from a purchaser. In order to~~  
30 ~~qualify for this exemption the contractor shall provide sufficient~~  
31 ~~documentation, in a manner and form prescribed by the department, to verify~~  
32 ~~that a contract was entered into before the date of the election to authorize~~  
33 ~~the tax.~~

34 Sec. 27. Title 42, chapter 6, article 3, Arizona Revised Statutes, is  
35 amended by adding section 42-6113, to read:

36 42-6113. County use tax

37 A. IF A COUNTY LEVIES ONE OR MORE EXCISE TAXES PURSUANT TO THIS  
38 ARTICLE ON THE EFFECTIVE DATE OF THIS SECTION AND IF APPROVED BY THE  
39 QUALIFIED ELECTORS VOTING AT A COUNTY-WIDE ELECTION, A COUNTY MAY LEVY AND,  
40 IF LEVIED, THE DEPARTMENT SHALL COLLECT AN EXCISE TAX ON THE STORAGE, USE OR  
41 CONSUMPTION IN THE COUNTY OF TANGIBLE PERSONAL PROPERTY PURCHASED FROM A  
42 RETAILER, AS A PERCENTAGE OF THE SALES PRICE. THE TAX LEVIED PURSUANT TO  
43 THIS SUBSECTION SHALL BE AT A RATE EQUAL TO THE SUM OF THE RATES OF ALL THE  
44 EXCISE TAXES LEVIED BY THE COUNTY ON THE EFFECTIVE DATE OF THIS SECTION.

1           B. IF, AFTER THE EFFECTIVE DATE OF THIS SECTION, A COUNTY SEEKS TO  
2 LEVY AN EXCISE TAX PURSUANT TO THIS ARTICLE, THE COUNTY SHALL INCLUDE IN THE  
3 LEVY AN EXCISE TAX AT THE SAME RATE ON THE STORAGE, USE OR CONSUMPTION IN THE  
4 COUNTY OF TANGIBLE PERSONAL PROPERTY PURCHASED FROM A RETAILER.

5           Sec. 28. Section 43-1072.01, Arizona Revised Statutes, is amended to  
6 read:

7           43-1072.01. Credit for increased excise taxes paid

8           A. Subject to the conditions prescribed by this section and if  
9 approved by the qualified electors voting at a statewide general election,  
10 for ~~tax~~ TAXABLE years beginning from and after December 31, 2000 a credit is  
11 allowed against the taxes imposed by this chapter for a taxable year for a  
12 taxpayer who is not claimed as a dependent by any other taxpayer and whose  
13 federal adjusted gross income is:

14           1. Twenty-five thousand dollars or less for a married couple or a  
15 single person who is a head of a household.

16           2. Twelve thousand five hundred dollars or less for a single person or  
17 a married person filing separately.

18           B. The credit is considered to be in mitigation of increased tax rates  
19 pursuant to section 42-5010, subsection G and section 42-5155, subsection  
20 ~~D~~ E.

21           C. The amount of the credit shall not exceed twenty-five dollars for  
22 each person who is a resident of this state and for whom a personal or  
23 dependent exemption is allowed with respect to the taxpayer pursuant to  
24 section 43-1023, subsection B, paragraph 1 and section 43-1043, but not more  
25 than one hundred dollars for all persons in the taxpayer's household, as  
26 defined in section 43-1072.

27           D. If the allowable amount of the credit exceeds the income taxes  
28 otherwise due on the claimant's income, the amount of the claim not used as  
29 an offset against income taxes shall be paid in the same manner as a refund  
30 granted under section 42-1118. Refunds made pursuant to this subsection are  
31 subject to setoff under section 42-1122.

32           E. The department shall make available suitable forms with  
33 instructions for claimants. Claimants who certify on the prescribed form  
34 that they have no income tax liability for the taxable year and who do not  
35 meet the filing requirements of section 43-301 are not required to file an  
36 individual income tax return. The claim shall be in a form prescribed by the  
37 department.

38           F. For taxable years beginning from and after December 31, 2002, a  
39 person who is sentenced for at least sixty days of the taxable year to the  
40 custody of the federal bureau of prisons, the state department of corrections  
41 or a county jail is not eligible to claim a credit pursuant to this section.

1           Sec. 29. Section 44-1263, Arizona Revised Statutes, is amended to  
2 read:

3           44-1263. Inability to conform motor vehicle to express  
4           warranty; replacement of vehicle or refund of  
5           monies; affirmative defenses; tax refund

6           A. If the manufacturer, its agents or its authorized dealers are  
7 unable to conform the motor vehicle to any applicable express warranty by  
8 repairing or correcting any defect or condition ~~which~~ THAT substantially  
9 impairs the use and value of the motor vehicle to the consumer after a  
10 reasonable number of attempts, the manufacturer shall replace the motor  
11 vehicle with a new motor vehicle or accept return of the motor vehicle from  
12 the consumer and refund to the consumer the full purchase price, including  
13 all collateral charges, less a reasonable allowance for the consumer's use of  
14 the vehicle. The manufacturer shall make refunds to the consumer and  
15 lienholder, if any, as their interests appear. A reasonable allowance for  
16 use is that amount directly attributable to use by the consumer before his  
17 first written report of the nonconformity to the manufacturer, agent or  
18 dealer and during any subsequent period when the vehicle is not out of  
19 service by reason of repair.

20           B. It is an affirmative defense to any claim under this article that  
21 either:

22           1. An alleged nonconformity does not substantially impair the use and  
23 market value of the motor vehicle.

24           2. A nonconformity is the result of abuse, neglect or unauthorized  
25 modifications or alterations of the motor vehicle.

26           C. In the case of taxes paid pursuant to title 42, chapter 5, if the  
27 manufacturer:

28           1. Accepts return of a motor vehicle from a consumer without replacing  
29 the motor vehicle, the manufacturer shall refund the amount of tax attributed  
30 to the sale of the vehicle to that consumer.

31           2. Replaces a motor vehicle with a new motor vehicle of lesser value,  
32 the manufacturer shall refund the difference between the original amount of  
33 tax attributed to the sale of that vehicle and the amount of tax attributed  
34 to the sale of the replacement vehicle, excluding the value of the motor  
35 vehicle being replaced.

36           3. Replaces a motor vehicle with a new motor vehicle of greater value,  
37 the manufacturer shall calculate the gross proceeds of sales pursuant to  
38 section 42-5001, paragraph ~~6~~ 8.

39           D. Pursuant to section 42-1118, subsection F, the manufacturer may  
40 apply to the department of revenue for a refund for the amount of tax that  
41 the manufacturer properly refunds to the consumer.

1           Sec. 30. Section 48-4022, Arizona Revised Statutes, is amended to  
2 read:

3           48-4022. Excise tax

4           A. The board of directors of a district in a county having a  
5 population of less than one million five hundred thousand persons according  
6 to the most recent United States decennial or special census may by  
7 resolution order the approval of a district excise tax to be placed on the  
8 ballot of an election pursuant to section 48-4021. If a majority of the  
9 qualified electors voting at the election approves the county jail district  
10 excise tax, the board of directors may by resolution levy, and if levied, the  
11 department of revenue shall collect, a tax beginning January 1 or July 1,  
12 whichever date first occurs at least three months after the district  
13 resolution approving the tax levy. The tax rate shall be a percentage of the  
14 excise tax rate prescribed by section 42-5010, subsection A applying to each  
15 person engaging or continuing in the district in a business taxed under title  
16 42, chapter 5, article 1 and section 42-5352, subsection A, not to exceed:

17           1. Ten per cent of each rate prescribed by section 42-5010, subsection  
18 A and section 42-5352, subsection A, in counties having a population of five  
19 hundred thousand persons or less.

20           2. Five per cent of each rate prescribed by section 42-5010,  
21 subsection A and section 42-5352, subsection A, in counties having a  
22 population of more than five hundred thousand persons but less than one  
23 million five hundred thousand persons.

24           B. If a district levies an excise tax under subsection A of this  
25 section, the board of directors, by resolution, ~~may~~ SHALL also levy, and if  
26 levied, the department of revenue shall collect, a use tax on ~~each retail~~  
27 ~~electric or natural gas customer using or consuming electricity or natural~~  
28 ~~gas in the district and subject to use tax pursuant to section 42-5155. The~~  
29 ~~use tax levied pursuant to this subsection shall be applied as a percentage~~  
30 ~~of the use tax rate imposed by title 42, chapter 5, article 4 equal to the~~  
31 ~~percentage determined under subsection A, paragraph 1 or 2 of this section,~~  
32 ~~as applicable.~~ THE STORAGE, USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE  
33 PERSONAL PROPERTY PURCHASED FROM A RETAILER OR UTILITY BUSINESS, AS A  
34 PERCENTAGE OF THE SALES PRICE. THE TAX LEVIED PURSUANT TO THIS PARAGRAPH  
35 SHALL BE AT A RATE EQUAL TO THE EXCISE TAX RATE UNDER SUBSECTION A OF THIS  
36 SECTION APPLYING TO RETAILERS AND UTILITY BUSINESSES ACCORDING TO THE  
37 RESPECTIVE CLASSIFICATION UNDER TITLE 42, CHAPTER 5, ARTICLES 1 AND 2 FOR THE  
38 SAME TYPE OF TRANSACTION OR BUSINESS ACTIVITY.

39           C. The tax applies in both incorporated and unincorporated areas of  
40 the county.

41           D. At the end of each month the state treasurer shall transmit the net  
42 revenues collected pursuant to this section to the district treasurer who  
43 shall deposit the revenues in the county jail district general fund.

1 E. Unless the context otherwise requires:

2 1. Section 42-6102 governs the administration of the tax imposed  
3 pursuant to subsection A of this section.

4 2. Title 42, chapter 5, article 4 governs the administration of the  
5 use tax imposed pursuant to subsection B OR F of this section.

6 F. IF A DISTRICT LEVIES AN EXCISE TAX PURSUANT TO SUBSECTION A OF THIS  
7 SECTION ON THE EFFECTIVE DATE OF THE AMENDMENT OF THIS SECTION AND IF  
8 APPROVED BY THE QUALIFIED ELECTORS VOTING AT A DISTRICT-WIDE ELECTION, A  
9 DISTRICT MAY LEVY AND, IF LEVIED, THE DEPARTMENT SHALL COLLECT AN EXCISE TAX  
10 ON THE STORAGE, USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE PERSONAL  
11 PROPERTY PURCHASED FROM A RETAILER OR UTILITY BUSINESS, AS A PERCENTAGE OF  
12 THE SALES PRICE. THE TAX LEVIED PURSUANT TO THIS SUBSECTION SHALL BE AT A  
13 RATE EQUAL TO THE RATE OF THE EXCISE TAX LEVIED PURSUANT TO SUBSECTION A OF  
14 THIS SECTION.

15 Sec. 31. Section 48-5805, Arizona Revised Statutes, is amended to  
16 read:

17 48-5805. Transaction privilege tax; property tax

18 A. The board of directors of the district by resolution may levy, and  
19 if levied, the department of revenue shall collect, a transaction privilege  
20 tax pursuant to this section to be used and spent for the purposes described  
21 in section 48-5804. The board shall set the rate of the tax at not more than  
22 two per cent of the tax rate that applies to each business in the district  
23 that is subject to taxation under title 42, chapter 5, article 1. The board  
24 shall levy the tax on each person engaging in the district in a business  
25 taxed under title 42, chapter 5, article 1.

26 B. Each month the state treasurer shall remit to the district  
27 treasurer the net revenues collected under ~~subsection~~ SUBSECTIONS A, D AND E  
28 of this section during the second preceding month. The district treasurer  
29 shall deposit the monies in the public health services district's accounts  
30 and shall account for all expenditures.

31 C. In lieu of a transaction privilege tax pursuant to subsection A of  
32 this section, the board by resolution may levy in the same manner and at the  
33 same time as other county secondary property taxes are levied a public health  
34 services district tax. The tax shall not exceed twenty-five cents per one  
35 hundred dollars of assessed valuation and shall be levied on all property in  
36 the county and on all property within incorporated cities and towns in the  
37 county. The district shall deposit all monies collected pursuant to this  
38 subsection in a separate account and shall account for all expenditures.

39 D. IF A DISTRICT LEVIES AN EXCISE TAX UNDER SUBSECTION A OF THIS  
40 SECTION, THE BOARD OF DIRECTORS, BY RESOLUTION, SHALL ALSO LEVY, AND IF  
41 LEVIED, THE DEPARTMENT OF REVENUE SHALL COLLECT, A USE TAX ON THE STORAGE,  
42 USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE PERSONAL PROPERTY PURCHASED FROM  
43 A RETAILER, AS A PERCENTAGE OF THE SALES PRICE. THE TAX LEVIED PURSUANT TO  
44 THIS SUBSECTION SHALL BE AT A RATE EQUAL TO THE EXCISE TAX RATE UNDER  
45 SUBSECTION A OF THIS SECTION APPLYING TO RETAILERS ACCORDING TO THE

1 RESPECTIVE CLASSIFICATION UNDER TITLE 42, CHAPTER 5, ARTICLES 1 AND 2 FOR THE  
2 SAME TYPE OF TRANSACTION OR BUSINESS ACTIVITY.

3 E. IF A DISTRICT LEVIES AN EXCISE TAX PURSUANT TO SUBSECTION A OF THIS  
4 SECTION ON THE EFFECTIVE DATE OF THE AMENDMENT OF THIS SECTION AND IF  
5 APPROVED BY THE QUALIFIED ELECTORS VOTING AT A DISTRICT-WIDE ELECTION, A  
6 DISTRICT MAY LEVY AND, IF LEVIED, THE DEPARTMENT SHALL COLLECT AN EXCISE TAX  
7 ON THE STORAGE, USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE PERSONAL  
8 PROPERTY PURCHASED FROM A RETAILER, AS A PERCENTAGE OF THE SALES PRICE. THE  
9 TAX LEVIED PURSUANT TO THIS SUBSECTION SHALL BE AT A RATE EQUAL TO THE RATE  
10 OF THE EXCISE TAX LEVIED PURSUANT TO SUBSECTION A OF THIS SECTION.

11 Sec. 32. Section 49-290, Arizona Revised Statutes, is amended to read:

12 49-290. Exemption from permit requirements; definition

13 A. Notwithstanding any other statute, a person who performs a remedial  
14 action or a portion of a remedial action that has been approved by the  
15 department if that action or portion is conducted in compliance with this  
16 article is not subject to any requirement to obtain any permit or approval  
17 that may otherwise be required by the department.

18 B. Except as prescribed in subsection D of this section, a person who  
19 conducts a portion of a remedial action, where that portion is entirely on  
20 site and is conducted in compliance with this article, may be exempted from a  
21 requirement to obtain any other state or local permit or approval, other than  
22 any requirement of title 45, at the written request of the person conducting  
23 the remedial action. The written request shall identify the specific permit  
24 to be exempted and the reasons the exemption is requested. The permit may be  
25 exempted if the director finds both of the following:

26 1. The requirement does not arise out of any permit or regulatory  
27 program that is required pursuant to the laws of the United States.

28 2. The requirement presents a substantial impediment to effective  
29 performance of the remedial action selected by the department.

30 C. The director may waive any regulatory requirement adopted pursuant  
31 to this title with respect to a site or portion of a site as part of a record  
32 of decision adopted pursuant to section 49-287.04 for that site or portion of  
33 a site if the regulatory requirement conflicts with the implementation of the  
34 selected remedy, provided that the waiver does not result in adverse impacts  
35 to public health or the environment. No waiver may be granted under this  
36 subsection if it is prohibited by federal law or if the waiver would  
37 jeopardize the continued delegation to the state of authority to implement a  
38 federal environmental program.

39 D. Discharge of wastewater to off-site publicly owned treatment works  
40 and sewer systems does not constitute an activity conducted entirely on site  
41 for purposes of subsection B of this section.

42 E. The director shall give written notice of any request for exemption  
43 made pursuant to subsection B of this section to the remedial action  
44 coordinator designated pursuant to subsection G of this section by the  
45 governmental entity whose permit requirements are the subject of the

1 request. Before making any finding pursuant to subsection B of this section,  
2 the director or the director's designee shall meet and confer with the  
3 remedial action coordinator and the person conducting the remedial action to  
4 identify alternatives to exemption.

5 F. Any finding made by the director pursuant to subsection B of this  
6 section shall be in writing. The governmental entity whose permit  
7 requirement is preempted as a result of such finding is not liable for  
8 property damage, personal injury damage or violations of state or local law  
9 resulting from the exemption. The director shall notify the affected  
10 governmental entity of any finding made pursuant to subsection B of this  
11 section. A finding of the director made pursuant to subsection B of this  
12 section is a final administrative decision as defined in section 41-1092 and  
13 is subject to judicial review pursuant to title 12, chapter 7, article 6.

14 G. Each city, town and county shall designate a remedial action  
15 coordinator who shall have responsibility for monitoring and facilitating any  
16 remedial actions conducted within its jurisdiction. The designated remedial  
17 action coordinator shall:

18 1. Regularly consult, as needed, with the department and the person  
19 conducting a remedial action throughout the duration of the remedial action.

20 2. Expedite the processing and issuance of permits, approvals or other  
21 authorizations required by the governmental entity represented by the  
22 remedial action coordinator, to facilitate the prompt conduct of a remedial  
23 action.

24 3. Provide information to the department and the person conducting the  
25 remedial action regarding applicable requirements of the governmental entity  
26 represented by the remedial action coordinator and the potential for waiver  
27 of such requirements.

28 ~~H. In order to encourage remediation activities under this article and~~  
29 ~~to conserve the fund, neither this state nor any county that imposes an~~  
30 ~~excise or similar tax that is levied at a rate applied as a percentage of the~~  
31 ~~rates on each business class subject to the tax imposed by title 42, chapter~~  
32 ~~5, article 1 may impose a tax on the sale or purchase of tangible personal~~  
33 ~~property incorporated or fabricated into any real property, structure,~~  
34 ~~project, development or improvement under a contract specified in section~~  
35 ~~42-5075, subsection B, paragraph 6.~~

36 ~~I.~~ H. For THE purposes of this section, "on site" means the areal  
37 extent of contamination and all suitable areas in close proximity to the  
38 contamination that are reasonably necessary for implementation of the  
39 remedial action.

40 Sec. 33. Preexisting contracts; tax

41 A. This act does not apply to or affect the tax liability with respect  
42 to contracts that were entered into before January 1, 2015 by a person who  
43 engaged in business under the prime contracting classification pursuant to  
44 section 42-5075, Arizona Revised Statutes, or the construction contracting,

1 owner builder or speculative builder classification pursuant to section 415,  
2 416 or 417 of the model city tax code.

3 B. Notwithstanding section 42-5075, Arizona Revised Statutes, as  
4 amended by this act, the tax imposed by title 42, chapter 5, article 1,  
5 Arizona Revised Statutes, is levied and shall be collected at a rate of five  
6 and six-tenths per cent of the tax base, as determined pursuant to section  
7 42-5075, Arizona Revised Statutes, as in effect on December 31, 2014, derived  
8 pursuant to contracts entered into before January 1, 2015 by prime  
9 contractors who were subject to tax under section 42-5075, Arizona Revised  
10 Statutes, before January 1, 2015.

11 C. Prime contractors shall maintain and provide to the department of  
12 revenue on request documentation regarding payments received in satisfaction  
13 of contracts that are subject to taxation under this section.

14 D. Twenty per cent of the tax revenues collected pursuant to this  
15 section is designated as distribution base for purposes of section 42-5029,  
16 Arizona Revised Statutes.

17 E. Notwithstanding section 42-6004, Arizona Revised Statutes, as  
18 amended by this act, the municipal privilege tax imposed by an incorporated  
19 city or town is levied and shall be collected at the rate in effect on  
20 December 31, 2014, as determined pursuant to the model city tax code, derived  
21 pursuant to contracts entered into before January 1, 2015 by construction  
22 contractors, owner builders and speculative builders that were subject to tax  
23 under section 415, 416 or 417 of the model city tax code, before January 1,  
24 2015, unless the contract does not contain a provision that entitles the  
25 taxpayer to recover the amount of the tax. The taxpayer is required to  
26 provide sufficient documentation to the department of revenue.

27 F. The taxes imposed pursuant to title 42, chapter 6, article 3,  
28 Arizona Revised Statutes, apply to the tax base, as determined pursuant to  
29 sections 42-5075 and 42-5076, Arizona Revised Statutes, as in effect on  
30 December 31, 2014, derived pursuant to contracts entered into after the date  
31 of the election to authorize the tax and before January 1, 2015 by prime  
32 contractors and owner builders who engaged in business pursuant to sections  
33 42-5075 and 42-5076, Arizona Revised Statutes. Contracts entered into before  
34 the date of the election to authorize the tax by prime contractors and owner  
35 builders who engaged in business pursuant to sections 42-5075 and 42-5076,  
36 Arizona Revised Statutes, are taxable pursuant to title 42, chapter 6,  
37 article 3, Arizona Revised Statutes, on the tax base, as determined pursuant  
38 to sections 42-5075 and 42-5076, Arizona Revised Statutes, as in effect on  
39 December 31, 2014, unless the contract does not contain a provision that  
40 entitles the taxpayer to recover the amount of the tax from a purchaser. The  
41 taxpayer is required to provide sufficient documentation to the department of  
42 revenue.

43 G. Unless the context otherwise requires, title 42, chapter 5, article  
44 1, Arizona Revised Statutes, governs the administration of the tax imposed by  
45 this section.



1           Sec. 34. Preexisting tax exempt contracts

2           A. From and after December 31, 2014, the sale of tangible personal  
3 property to a contractor for incorporation or fabrication, pursuant to a  
4 contract entered into before January 1, 2015, into any project that was  
5 subject to a deduction under section 42-5075, subsection B, Arizona Revised  
6 Statutes, as in effect on December 31, 2014, is not subject to tax under  
7 section 42-5061, Arizona Revised Statutes.

8           B. From and after December 31, 2014, the sale of tangible personal  
9 property to a construction contractor, owner builder or speculative builder  
10 for incorporation or fabrication pursuant to a contract entered into before  
11 January 1, 2015, into any project that was subject to a deduction under  
12 section 415.b, 416.c.1 or 2, or 417.c.1 or 2 of the model city tax code, as  
13 in effect on December 31, 2014, is not subject to tax under section 460 of  
14 the model city tax code.

15           Sec. 35. Use tax

16           A. Tangible personal property that was purchased before January 1,  
17 2015 by a person who engaged in business under the prime contracting  
18 classification or who performed contracting services within the control of a  
19 prime contractor pursuant to section 42-5075, Arizona Revised Statutes, and  
20 that was not incorporated into a project for which the contract was entered  
21 into before January 1, 2015 is subject to use taxation pursuant to section  
22 42-5155, Arizona Revised Statutes.

23           B. Tangible personal property that was purchased before January 1,  
24 2015 by a person who engaged in business under the construction contracting,  
25 owner builder or speculative builder classification or who performed  
26 contracting services within the control of a construction contractor, owner  
27 builder or speculative builder pursuant to section 415, 416 or 417 of the  
28 model city tax code and that was not incorporated into a project for which  
29 the contract was entered into before January 1, 2015 is subject to use  
30 taxation under the model city tax code.

31           Sec. 36. Department of revenue: emergency rule making

32           The department of revenue may adopt emergency rules pursuant to section  
33 41-1026, Arizona Revised Statutes, as necessary to administer this act.

34           Sec. 37. Effective dates

35           A. Sections 42-5039 and 42-6113, Arizona Revised Statutes, as added by  
36 this act, and sections 48-4022 and 48-5805, Arizona Revised Statutes, as  
37 amended by this act, are effective from and after December 31, 2013.

38           B. Sections 28-2154.01, 41-1516, 41-1532, 42-1103, 42-5001, 42-5006,  
39 42-5009, 42-5010, 42-5029, 42-5032.01, 42-5032.02, 42-5061, 42-5071, 42-5072,  
40 42-5075, 42-5151, 42-5155, 42-5159, 42-5160, 42-6001, 42-6002, 42-6004,  
41 42-6102, 43-1072.01, 44-1263 and 49-290, Arizona Revised Statutes, as amended  
42 by this act, are effective from and after December 31, 2014.